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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 987

[Doc. No. AMS–SC–18–0058; SC18–987–1 FR]

Domestic Dates Produced or Packed in Riverside County, California; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule implements a recommendation from the California Date Administrative Committee (Committee) to increase the assessment rate for the 2018–19 and subsequent crop years for California dates handled under Marketing Order 987. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Effective April 17, 2019.

FOR FURTHER INFORMATION CONTACT:

Terry Vawter, Senior Marketing Specialist, California Marketing Field Office, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA; Telephone: (559) 487–5901, Fax: (559) 487–5906, or Email: Terry.Vawter@ams.usda.gov.

Small businesses may request information on complying with this regulation by contacting Richard Lower, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or Email: Richard.Lower@ams.usda.gov.

SUPPLEMENTARY INFORMATION: This action, pursuant to 5 U.S.C. 553, amends regulations issued to carry out a marketing order as defined in 7 CFR 900.2(j). This rule is issued under Marketing Order No. 987, as amended (7 CFR part 987), regulating the handling

of domestic dates produced or packed in Riverside County, California. Part 987, (referred to as the “Order”) is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the “Act.” The Committee locally administers the Order and is comprised of producers and producer-handlers operating within the area of production.

The Department of Agriculture (USDA) is issuing this final rule in conformance with Executive Orders 13563 and 13175. This rule falls within a category of regulatory actions that the Office of Management and Budget (OMB) exempted from Executive Order 12866 review. Additionally, because this rule does not meet the definition of a significant regulatory action, it does not trigger the requirements contained in Executive Order 13771. See OMB’s Memorandum titled “Interim Guidance Implementing Section 2 of the Executive Order of January 30, 2017, titled ‘Reducing Regulation and Controlling Regulatory Costs’” (February 2, 2017).

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the Order now in effect, California date handlers are subject to assessments. Funds to administer the Order are derived from such assessments. It is intended that the assessment rate will be applicable to all assessable dates for the 2018–19 crop year, and continue until amended, suspended, or terminated.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA’s ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

The Order provides authority for the Committee, with the approval of USDA, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members are familiar with the Committee’s needs and with the costs of goods and services in their local area, and are, thus, in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

This rule increases the assessment rate from \$0.05 per hundredweight, the rate that was established for the 2016–17 and subsequent crop years, to \$0.15 per hundredweight of dates handled for the 2018–19 and subsequent crop years. The higher rate is necessary in order to provide sufficient funds to cover the 2018–19 anticipated expenses. As a result of three consecutive assessment decreases, a smaller crop, anticipated increases in the cost of the annual financial audit, and increased costs for dues and subscriptions, the Committee recommended an increased assessment rate. The 2018–19 crop is estimated to be approximately 29,000,000 pounds, down from 36,000,000 pounds for the 2017–18 crop year.

The Committee’s operating reserve is low enough that an increase in the assessment rate is necessary to ensure that there are sufficient funds to pay for all the Committee’s 2018–19 crop year expenses, while also ensuring that the Committee has an operating reserve to carry into the 2019–20 crop year.

The Committee met on June 28, 2018, and unanimously recommended increasing the assessment rate from the current \$0.05 per hundredweight to \$0.15 per hundredweight in order to maintain expenses at a level consistent with recent crop years’ expenses, draw a portion of the expenses from the existing operating reserve, and provide a sufficient operating reserve to carry forward. The assessment rate increase, along with the funds from the reserve and other income, should provide sufficient funds to cover anticipated expenses.

The Committee estimates the 2018–19 domestic date crop to be 29,000,000 pounds (290,000 hundredweight), which, at the \$0.15 rate, should generate \$43,500 in assessment income. Other

income, which includes items such as interest income, is expected to be approximately \$5,000. Combined with the anticipated \$50,000 in beginning year operating reserve funds, the total funds available for the 2018–19 crop year are expected to be \$98,500.

The Committee's expenses for the 2018–19 crop year are estimated at \$83,790. The Committee's expenses are entirely operational, since it conducts its research and promotion programs through its sister organization, the California Date Commission, a California State marketing program.

The major administrative expenses include \$58,000 for salaries and \$25,740 for office and Committee expenses such as rent, insurance, postage, website and email, utilities, meeting costs, and other miscellaneous administrative expenses.

The previous crop year's budget was \$67,800, and budgeted expenses for salaries and for office and Committee expenses were \$50,000 and \$17,800, respectively. Increases in the cost of the annual audit, personnel, and in dues and subscriptions account for some of the increased expenses in the 2018–19 crop year.

The increased cost for the annual audit reflects the Committee's need to conduct a comprehensive, government-mandated "single-audit (Yellow Book audit)." Dues and subscriptions have increased due to the Committee's use of an import reporting subscription service, which provides detailed data on date imports.

The assessment rate recommended by the Committee was derived by considering anticipated expenses, expected volume of dates handled, and the amount of funds available in the operating reserve. Income derived from handler assessments of \$43,500 (290,000 hundredweight assessed at the rate of \$0.15), along with other income and funds from the Committee's operating reserve, would be adequate to cover budgeted expenses of \$83,790. Funds in the operating reserve (currently \$50,000) would not exceed the average of the annual expenses of the preceding five years, as mandated by § 987.72(d).

The assessment rate established in this rule will continue in effect indefinitely unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate will be in effect for an indefinite period, the Committee will continue to meet prior to or during each crop year to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The

dates and times of Committee meetings are available from the Committee or USDA. Committee meetings are open to the public and interested persons may express their views at these meetings. USDA would evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking would be undertaken as necessary. The Committee's budget for subsequent crop years would be reviewed and, as appropriate, approved by USDA.

Final Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf.

There are approximately 70 date producers in the production area and 11 date handlers subject to regulation under the Order. The Small Business Administration defines small agricultural producers as those having annual receipts of less than \$750,000, and small agricultural service firms as those whose annual receipts are less than \$7,500,000 (13 CFR 121.201).

According to the National Agricultural Statistics Service (NASS), data for the most recently completed crop year (2017) shows that about 3.23 tons, or 6,460 pounds, of dates were produced per acre. The 2017 producer price published by NASS was \$2,840 per ton. Thus, the value of date production per acre averaged about \$9,173 (3.23 tons times \$2,840 per ton). At that average price, a producer would have to farm nearly 82 acres to receive an annual income from dates of \$750,000 (\$750,000 divided by \$9,173 per acre equals 81.76 acres). According to Committee staff, the majority of California date producers farmed less than 81 acres during the 2017–18 crop year. Thus, it can be concluded that the majority of date producers could be considered small entities.

Furthermore, based on a reported average handler price of \$1.25 per pound for packaged dates handled, a

handler would have to handle at least 6,000,000 pounds to have \$7,500,000 in annual receipts (6,000,000 multiplied by \$1.25 per pound). According to information from the Committee on handler utilization of dates, only three of the regulated handlers handled less than 6,000,000 pounds during the 2017–18 crop year. Thus, most of the handlers could be considered large entities.

This rule increases the assessment rate collected from handlers for the 2018–19 and subsequent crop years from \$0.05 to \$0.15 per hundredweight of dates handled. The Committee unanimously recommended 2018–19 expenditures of \$83,740 and an assessment rate of \$0.15 per hundredweight of dates, which is \$0.10 higher than the 2016–17 rate currently in effect. The quantity of assessable dates for the 2018–19 crop year is estimated at 29,000,000 pounds (290,000 hundredweight). Thus, the \$0.15 rate should provide \$43,500 in assessment income. Income derived from handler's assessments, funds from the Committee's authorized reserve, and other income should be adequate to cover expenses for the 2018–19 crop year.

The total expenditure recommended by the Committee for the 2018–19 crop year is \$83,790, compared to \$67,800 for the 2017–18 crop year. The Committee recommended a higher assessment rate because its operating reserve would otherwise be too small to fund program operations when combined with other income. In addition, the crop estimate for the 2018–19 crop year is expected to be 29,000,000 pounds, compared to 36,000,000 pounds for the 2017–18 crop year.

The income generated from the higher assessment rate applied to the estimated crop, combined with carry-in funds and income from other sources, should be sufficient to cover anticipated 2018–19 expenses and to maintain a financial reserve within the limit specified by the Order.

Section 987.72(d) states that the Committee may maintain an operating monetary reserve not to exceed the average of one year's expenses incurred during the most recent five preceding crop years, except that an established reserve need not be reduced to conform to any recomputed average. The Committee estimated a \$50,000 reserve carry-in for the 2018–19 crop year. It expects to utilize \$35,290 of the reserve during the year, leaving a reserve of approximately \$14,710 at the end of the 2018–19 crop year, which is within the limit specified in the Order.

The Committee reviewed and unanimously recommended 2018–19

crop year expenditures of \$83,790. Prior to arriving at this budget, the Committee considered information from its Budget Subcommittee (Subcommittee), which met on June 7, 2018. The Subcommittee discussed alternative expenditure levels and assessment rates, including not changing the assessment rate or adjusting expenses. Ultimately, the Subcommittee and the Committee recommended an assessment rate of \$0.15 per hundredweight of dates handled after considering several factors including the anticipated 2018–19 crop, the Committee's estimated 2018–19 reserve carry-in and other income, and its anticipated expenses.

A review of historical and preliminary information pertaining to the upcoming crop year indicates that the producer price for the 2017–18 crop year was approximately \$142.00 per hundredweight of dates. Utilizing that price, the estimated crop size, and the assessment rate of \$0.15 per hundredweight, the estimated assessment revenue for the 2018–19 crop year as a percentage of total producer revenue will be approximately 0.1 percent (\$0.15 per hundredweight divided by \$142 per hundredweight).

This action increases the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to producers. However, these costs would be offset by the benefits derived by the operation of the Order. In addition, the Committee's and the Subcommittee's meetings were widely publicized throughout the California date industry. All interested persons were invited to attend the meetings and encouraged to participate in Committee deliberations on all issues. Like all Committee meetings, the June 28, 2018, meeting was a public meeting, and all entities, both large and small, were able to express views on this issue.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Order's information collection requirements have been previously approved by OMB and assigned OMB No. 0581–0178, Vegetable and Specialty Crops. No changes in those requirements are necessary as a result of this action. Should any changes become necessary, they would be submitted to OMB for approval.

This final rule imposes no additional reporting or recordkeeping requirements on either small or large California date handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce

information requirements and duplication by industry and public sector agencies. As noted in the initial regulatory flexibility analysis, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this final rule.

AMS is committed to complying with the E-Government Act, to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

A proposed rule concerning this action was published in the **Federal Register** on November 2, 2018 (83 FR 55111). Copies of the proposed rule were provided to all California date handlers. The proposal was also made available through the internet by USDA and the Office of the Federal Register. A 30-day comment period ending December 3, 2018, was provided for interested persons to respond to the proposal. No comments were received. Accordingly, no changes will be made to the rule as proposed.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: <http://www.ams.usda.gov/rules-regulations/moa/small-businesses>. Any questions about the compliance guide should be sent to Richard Lower at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant material presented, including the information and recommendation submitted by the Committee and other available information, it is hereby found that this rule will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 987

Dates, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 987 is amended as follows:

PART 987—DOMESTIC DATES PRODUCED OR PACKED IN RIVERSIDE COUNTY, CALIFORNIA

■ 1. The authority citation for part 987 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Section 987.339 is revised to read as follows:

§ 987.339 Assessment rate.

On and after October 1, 2018, an assessment rate of \$0.15 per hundredweight is established for dates

produced or packed in Riverside County, California.

Dated: March 12, 2019.

Bruce Summers,
Administrator, Agricultural Marketing Service.

[FR Doc. 2019–04909 Filed 3–15–19; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Part 316

[Docket No. FSIS 2018–0019]

RIN 0583–AD69

Elimination of the Requirement That Livestock Carcasses Be Marked “U.S. Inspected and Passed” at the Time of Inspection Within a Slaughter Establishment for Carcasses To Be Further Processed Within the Same Establishment

AGENCY: Food Safety and Inspection Service (FSIS), USDA.

ACTION: Final rule.

SUMMARY: FSIS is amending the Federal meat inspection regulations to eliminate the requirement that livestock carcasses be marked with the official inspection legend at the time of inspection in a slaughter establishment, if the carcasses are to be further processed in the same establishment.

DATES: Effective April 17, 2019.

FOR FURTHER INFORMATION CONTACT: Roberta Wagner, Assistant Administrator, Office of Policy and Program Development, Food Safety and Inspection Service, U.S. Department of Agriculture; Telephone: (202) 205–0495.

SUPPLEMENTARY INFORMATION:

Background

In the past, slaughter establishments often would ship carcasses to other establishments for further processing into primal, subprimal, and other meat cuts and products. Today however, most establishments that slaughter swine, cattle, sheep, or goats also fabricate the carcasses into various primal and subprimal parts, as well as other meat products. More specifically, after a carcass has passed inspection, the slaughter establishment typically moves it, under control, to another department in the same establishment for further processing. The establishment then typically ships the resulting meat food products, rather than marked carcasses, in fully labeled containers either for further processing at other establishments or into commerce.

FSIS regulations at § 316.9(a) have required that all livestock carcasses be marked with the inspection legend when they are inspected and passed on the slaughter floor, even if they are to be further processed within the same establishment. Numerous slaughter establishments have requested and been granted waivers (§ 303.1(h)) from this requirement, as they further process the carcasses elsewhere in the same establishment, after which the resulting products are marked with the inspection legend. FSIS experience with establishments operating under these waivers has shown that they have no difficulty ensuring that only inspected, passed and properly marked parts enter into commerce and also ensuring, when applicable, that only inspected, passed and marked carcasses are shipped into commerce.

Accordingly, on July 31, 2018, FSIS proposed that establishments no longer be required to mark carcasses with the inspection legend on the slaughter floor, if the carcasses are to be further processed in the same establishment (83 FR 36794). The proposal did not change the regulations that require that all primals, subprimals, parts and other meat food products be properly labeled and bear the mark of inspection before entering commerce (§ 316.9(b)). Under the proposed rule, FSIS inspection personnel would verify whether the establishment is shipping marked carcasses or whether the establishment is further processing the carcasses in the establishment and marking the processed parts appropriately before the parts leave the establishment.

Final Rule

After consideration of all the comments, FSIS is finalizing the provisions of the July 31, 2018, proposed rule with one change. The final rule does not include the proposed requirement that establishments have procedures in their HACCP plans, Sanitation SOPs, or prerequisite programs to ensure that (1) unmarked carcasses are further processed only in the slaughtering establishment; (2) unmarked carcasses that, for any reason, are not further processed in the slaughtering establishment do not leave the establishment unmarked; and (3) unmarked and retained carcasses or parts remain under FSIS control until the establishment makes any corrections that are necessary to render the carcass or part eligible to bear the mark of inspection.

Comments and Responses

FSIS received one comment from a trade association and five comments

from individuals in response to this rule. One individual and the trade association generally supported the proposed changes. A summary of comments and FSIS responses follows.

Comment: A trade association representing members of the meat industry stated that the economic impact analysis assumes that all establishments that are currently marking carcasses will stop after the implementation of the final rule. According to the trade association, not all establishments will change their marking practices because some establishments ship whole carcasses, some package primals in bulk packaging (making the mark necessary to comply with regulation), and some will not want to incorporate controls for unmarked carcasses into their HACCP plans. The commenter also stated customer requirements, production practices, and product mix can affect the marking of carcasses. The trade association argued that the proposed rule does not create a stronger incentive to discontinue carcass marking than the waiver process.

Response: The Agency agrees that it is likely that not all establishments will stop marking carcasses after implementation of the final rule. Establishments that ship whole carcasses will need to continue to mark carcasses. However, FSIS believes that the advantage to discontinuing the marking of carcasses is strong enough that most establishments will do this after implementation of the final rule, provided the establishment does not ship the carcass outside the establishment for further processing. In response to the comment, FSIS adjusted the expected post-rule percentage of carcasses that will not be marked from 100 percent to 90–95 percent in the final rule economic impact analyses. FSIS estimates that elimination of the requirement to mark carcasses will yield an annual cost-saving of \$0.82 million to \$0.93 million per year.

Comment: The same trade association comment stated that because the proposed rule would require establishments to incorporate unmarked carcass procedures into the HACCP system, sanitation SOPs, or other prerequisite programs, FSIS is just replacing one regulation with another, and that the proposed rule is not a deregulatory action as defined by E.O. 13771. The comment stated that other, existing regulations require establishments to prevent uninspected or condemned carcasses from entering commerce and that inspected and passed carcasses and parts bear the mark before leaving the official

establishment. Further, the comment argued that HACCP controls are specific to the establishment based on a thorough hazard analysis and that only if the movement of unmarked carcasses poses a significant food safety risk in the process should a control be put in place. The comment stated that the movement of unmarked carcasses likely would not pose a significant food safety risk at establishments.

Response: FSIS agrees that requirements concerning the movement and marking of carcasses already occur in other regulations: 9 CFR part 310, addresses the retaining of carcasses that may be unfit for human consumption; 9 CFR part 314, addresses condemned and inedible product; 9 CFR part 316, addresses marking of products and containers; and 9 CFR part 317, addresses labeling, marking devices, and containers. Together, these existing regulations adequately require that establishments control the movement of unmarked carcasses. Accordingly, in the final provisions in § 316.9(b), FSIS has removed the requirement that establishments incorporate unmarked carcass procedures into their HACCP plans, sanitation SOPs, or other prerequisite programs.

Comment: One individual questioned FSIS's regulatory authority to deviate from the exact language in the Federal Meat Inspection Act (FMIA) when changing the language in the regulations.

Response: The FMIA requires that carcasses and parts (21 U.S.C. 604) and meat food products (21 U.S.C. 606) found not to be adulterated be marked "Inspected and passed" by FSIS inspectors. The FMIA does not require that this marking be done at a specific time or in a specific location in the establishment, especially if carcasses are being processed into parts or into meat food products within the same establishment. The new regulations in 316.9(a) will ensure that the specific intent of the FMIA marking requirements continue to be met in the contemporary market, *i.e.*, that carcasses, parts, and meat food products found not adulterated by USDA inspectors enter commerce only if marked "Inspected and Passed."

Comment: One individual opposed the changes and questioned the risk of a carcass leaving the facility unmarked under this rule. The individual also questioned FSIS's oversight for establishments under this new rule.

Response: The new language at § 316.9(a) states that "Each carcass that has been inspected and passed in an official establishment must be marked at the time of inspection with the official

inspection legend containing the number of the official establishment, if the carcass is to be shipped into commerce from the establishment without further processing.” Therefore, all carcasses not further processed at the establishment must be marked with the official inspection legend before entering commerce. FSIS will continue to provide inspection at establishments to verify that establishments meet this requirement, as well as to ensure that all meat food products are properly marked and labeled before entering commerce.

Executive Orders 12866 and 13563, and the Regulatory Flexibility Act

Executive Orders 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 benefits, distributive impacts, and equity). Executive Order (E.O.) 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This final rule has been designated as a “non-significant” regulatory action under section 3(f) of E.O. 12866. Accordingly, the final rule has not been reviewed by the Office of Management and Budget (OMB) under E.O. 12866.

Economic Impact Analysis

FSIS is removing the requirement for carcasses slaughtered in an establishment to bear the mark of inspection after being inspected and passed on the slaughter floor if the carcasses are to be further processed in the same establishment. Since this requirement is no longer necessary to prevent adulterated food product from entering commerce (see explanation in the Background section above), removing it will have no negative public health impact. Nor will it impose costs on the industry or the Agency.

Regarding benefits from the rulemaking, removing an unnecessary requirement will allow establishments the flexibility to innovate and to operate in the most efficient manner. In addition, it will also allow FSIS to utilize its resources more appropriately by relieving inspectors of unnecessary tasks. The expected benefits from this final rule will accrue from time and resource savings. Inspected and passed carcasses meant for further processing in the same establishment where the animals were slaughtered will not have to wait for the mark of inspection but can move directly to further processing.

Thus, establishments that slaughter livestock and process livestock carcasses in the same facility will benefit from fewer delays in their operations and greater flexibility to conduct processing operations on inspected and passed carcasses.

FSIS received only one comment on the proposed rule’s economic impact analysis. The comment, from the industry, argued that some establishments will continue to mark the carcasses after the implementation of the final rule. In response to this comment, FSIS adjusted the expected post-rule percentage of carcasses processed within the same establishment that will not be marked from 100 percent to 90–95 percent.

Agency data showed that there are approximately 797 meat slaughtering establishments, and approximately 676 of them (~85 percent) do both slaughtering and processing.¹ FSIS estimates that in these 676 establishments, approximately 95 percent of the carcasses are further processed in the same establishment. Given that the annual production of meat by Federal inspected establishments is approximately 150 million heads,² roughly 120.9 million carcasses are subject to the requirements in § 316.9 (150 million × 85 percent × 95 percent). Assuming that it takes establishment labor, on average, 3 seconds to mark each carcass, and that approximately half of the establishments already have waivers from the requirement, and that an additional 40–45 percent of the carcasses will not be marked after implementation of this final rule, approximately 40,310 to 45,349 additional hours will be saved by this final rule. Most establishments use hired workers to do the marking. If we assume that the average hourly pay (salary plus benefits) is \$20,³ then the time saved is equivalent to approximately \$0.81 to \$0.91 million annually.

In addition, such establishments will no longer need to replace the broken or worn out stamps previously used for marking carcasses on the slaughter floor. Typically, a stamp (usually made of

bronze) costs \$225 and lasts 5 years.⁴ The annualized cost of the stamp is \$55 (if the interest rate is 7 percent) or \$50 (if the interest rate is 3 percent). Assuming each establishment (that does not already have a waiver from the requirement to mark carcasses and is expected to stop marking because of the final rule) uses one stamp per year, the annual savings on these stamps will be between \$13,300 and \$16,700.

Additionally, establishments will no longer need to make written requests for waivers from the requirement to mark carcasses further processed within the same establishment and will no longer need to wait to have such requests approved. Further, because FSIS inspected and passed carcasses will no longer be required to bear the mark of inspection if they are sent for further processing in the same establishment, FSIS inspectors will no longer need to verify this mark, and will have more time to focus on activities that are more important in ensuring food safety, such as verifying that establishments meet HACCP regulations and collecting product samples. These savings are minimal and have not been quantified. There are no expected costs associated with this rule.

Regulatory Flexibility Act Assessment

The FSIS Administrator has made a determination that this final rule will not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act (5 U.S.C. 601). The final rule will not increase costs to the industry.

Executive Order 13771

Consistent with E.O. 13771 (82 FR 9339, February 3, 2017), FSIS has estimated that this final rule will yield cost savings. Therefore, this rule is an E.O. 13771 deregulatory action.

Paperwork Reduction Act

There are no new paperwork or recordkeeping requirements associated with this final 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

¹ Data source: Public Health Information System as of June 2017, provided by FSIS’s Office of Data Integration and Food Protection (now the Office of Planning, Analysis and Risk Management).

² Livestock Slaughter 2016 Summary (April 2017). USDA, National Agricultural Statistics. <http://usda.mannlib.cornell.edu/usda/nass/LiveSlauSu/2010s/2017/LiveSlauSu-04-19-2017.pdf>, p.15, accessed 11/16/2018.

³ Data source: Bureau of Labor Statistics (BLS) report of average wage of meat slaughterers and packers. <https://www.bls.gov/oes/current/oes513023.htm/>, accessed 06/2017.

⁴ Data from Ketchum Manufacturing Inc., a manufacturer of meat stamps, through telephone interview on 4/17/2017.

access to Government information and services, and for other purposes.

Executive Order 12988, Civil Justice Reform

This final rule has been reviewed under E.O. 12988, Civil Justice Reform. Under this rule: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) no administrative proceedings will be required before parties may file suit in court challenging this rule.

Executive Order 13175

This rule has been reviewed in accordance with the requirements of E.O. 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 rule on Indian tribes and determined that this rule does not, to our knowledge, have tribal implications that require tribal consultation under E.O. 13175. If a Tribe requests consultation, FSIS 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 shall, 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 online through the FSIS web page located at: <http://www.fsis.usda.gov/federal-register>.

FSIS also will make copies of this publication available through the FSIS Constituent Update, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to our constituents and stakeholders. The Constituent Update is available on the FSIS web page. Through the web page, FSIS is able to provide information to a much broader, more diverse audience. In addition, FSIS offers an email subscription service which provides automatic and customized access to selected food safety news and information. This service is available at: <http://www.fsis.usda.gov/subscribe>. Options range from recalls to export information, regulations, directives, and notices. Customers can add or delete subscriptions themselves, and have the option to password protect their accounts.

List of Subjects in 9 CFR Part 316

Food labeling, Food packaging, Meat inspection.

For the reasons set forth in the preamble, FSIS is amending 9 CFR part 316 as follows:

PART 316—MARKING PRODUCTS AND THEIR CONTAINERS

- 1. The authority citation for part 316 is revised to read as follows:

Authority: 21 U.S.C. 601–695; 7 CFR 2.18, 2.55.

- 2. In § 316.9, revise paragraph (a), redesignate paragraphs (b) through (d) as paragraphs (c) through (e),

respectively, and add a new paragraph (b) to read as follows:

§ 316.9 Products to be marked with official marks.

(a) Each carcass that has been inspected and passed in an official establishment must be marked at the time of inspection with the official inspection legend containing the number of the official establishment, if the carcass is to be shipped into commerce from the establishment without further processing.

(b) A passed and inspected carcass that is to be further processed in the slaughtering establishment need not be marked with the official inspection legend at the time of inspection.

* * * * *

Done in Washington, DC.

Carmen M. Rottenberg,
Administrator.

[FR Doc. 2019-04993 Filed 3-15-19; 8:45 am]

BILLING CODE 3410-DM-P

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 350

RIN 3064-AE65

Disclosure of Financial and Other Information by FDIC-Insured State Nonmember Banks

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Final rule.

SUMMARY: The Federal Deposit Insurance Corporation (FDIC) is amending its regulations by rescinding and removing its regulations entitled *Disclosure of Financial and Other Information By FDIC-Insured State Nonmember Banks*. Upon the removal of the regulations, all insured state nonmember banks and insured state-licensed branches of foreign banks (collectively, "banks") would no longer be subject to the annual disclosure statement requirement set out in the existing regulations. The financial and other information that has been subject to disclosure by individual banks under the regulations is publicly available through the FDIC's website.

DATES: This rule will be effective April 17, 2019.

FOR FURTHER INFORMATION CONTACT: Robert Storch, Chief Accountant, Division of Risk Management Supervision, (202) 898-8906 or rstorch@fdic.gov; Andrew Overton, Examination Specialist (Bank Accounting), Division of Risk Management Supervision, (202)

898–8922 or aoverton@fdic.gov; Michael Condon, Counsel, Legal Division, (202) 898–6536 or mcondon@fdic.gov.

SUPPLEMENTARY INFORMATION:

I. Policy Objectives

The policy objective of the final rule is to simplify the FDIC's regulations by removing unnecessary or redundant regulations. The final rule rescinds and removes part 350 from the Code of Federal Regulations. Technological advancements over the past 30 years provide the public with ready access to more extensive and timely information on the condition and performance of individual banks, obviating the need for the annual disclosure statement requirements in part 350.

II. Background

Part 350 was adopted by the FDIC Board of Directors on December 17, 1987, and took effect February 1, 1988.¹ In general, part 350 requires FDIC-insured state nonmember banks and FDIC-insured state-licensed branches of foreign banks (collectively, “banks”) to prepare, and make available on request, annual disclosure statements consisting of: (1) Required financial data comparable to specified schedules in the Consolidated Reports of Condition and Income (Call Report) filed for the previous two year-ends; (2) information that the FDIC may require of particular banks, which could include disclosure of enforcement actions; and (3) other information at a bank's option. Part 350 also permits the use of certain alternatives to the Call Report as a disclosure statement. Part 350 does not apply to the insured state savings associations that are supervised by the FDIC.

The annual disclosure statement for a particular year must be prepared, and made available to the public, by March 31 of the following year, or the fifth day after an organization's annual report covering the year is sent to shareholders, whichever occurs first. Banks are required to announce the availability of the disclosure statements in lobby notices in each of their offices and in notices of annual meetings sent to shareholders.

In adopting part 350, the FDIC's intent was to improve public awareness and understanding of the financial condition of individual banks. In the preamble to the December 1987 final rule, the FDIC stated that “improved financial disclosure should reduce the likelihood of the market or bank customers overreacting to incomplete information.” The FDIC also said it

believed the disclosure requirement “will complement its supervisory efforts and enhance public confidence in the banking system.” With limited resources available for the public to gather, analyze, and understand information about the financial condition of individual banks before and during the 1980s, the FDIC's adoption of part 350 provided the public with an opportunity to obtain certain basic bank financial information.

After the FDIC adopted part 350, the Office of the Comptroller of the Currency (OCC) and the Federal Reserve Board (FRB) adopted similar disclosure regulations. When initially adopted, the disclosure regulations adopted by the FDIC (12 CFR part 350), the FRB (12 CFR 208.17), and the OCC (12 CFR part 18) were substantially uniform. These regulations required institutions to make almost identical information available to the public upon request. The former Office of Thrift Supervision (OTS) had a similar, but not identical, disclosure regulation (12 CFR 562.3). As a result of its review of regulations pursuant to Section 303(a) of the Riegle Community Development and Regulatory Improvement Act of 1994, the OTS repealed 12 CFR 562.3 as unnecessary in 1995.² In 1998, the FRB eliminated 12 CFR 208.17, Disclosure of Financial Information by State Member Banks, from its regulations on the basis that Call Report information for banks had become available through the internet.³ In 2017, the OCC removed 12 CFR part 18 from its regulations, noting that the information it required national banks to disclose is contained in other publicly available documents, which meant that 12 CFR part 18 is duplicative and unnecessary.⁴

With advancements in information technology since part 350 was adopted, including widespread public access to the internet (including through public libraries for individuals without their own direct personal access to the internet), information about the financial condition of individual insured depository institutions is now reliably and directly offered to the public through the FDIC's and the Federal Financial Institutions Examination Council's (FFIEC) websites. For example, information about the financial condition and performance of all insured depository institutions is publicly available each quarter through the Call Report and the Uniform Bank Performance Report (UBPR). In addition, enforcement

actions taken by the FDIC are readily available to the public from the FDIC's website.

The Call Report contains an institution's balance sheet, income statement, and supplemental schedules that disclose additional details about the major categories of assets and liabilities, regulatory capital, and other financial information. Since the successful deployment of the FFIEC's Central Data Repository (CDR) Public Data Distribution (PDD) website,⁵ the public has had ready access to financial information for each insured depository institution. The public is able to obtain more current Call Report data for individual institutions in various formats from the FFIEC's CDR PDD website than the financial information available in the annual disclosure statement required by part 350. Individual institution Call Report data generally are posted on this website within 24 hours after the data have been submitted to and accepted by the CDR.

The UBPR is an analytical tool created for bank supervisory, examination, and management purposes that shows the impact of management decisions and economic conditions on a bank's performance and balance-sheet composition. The content of the UBPR is calculated each quarter primarily from Call Report data. UBPRs for individual institutions are available to the public via the CDR PDD website. An institution's UBPR is usually published online within a day after its Call Report has been filed with and accepted by the CDR. Online access to an institution's UBPR each quarter complements the public's use of the institution's Call Report and further expands upon the amount of publicly available financial data for an institution beyond the limited financial information provided in the annual disclosure statement required by part 350. The public is able to easily locate the Call Report and the UBPR for a bank through the FDIC BankFind tool, which is available on the FDIC's website.⁶

In addition, on a monthly basis, the FDIC publishes a press release listing the administrative enforcement actions it has taken against banks and individuals during the preceding month. Enforcement actions taken by the FDIC since 1990 are available to the public on the FDIC's website.⁷ Interested parties may also obtain

² See 60 FR 66866 (December 27, 1995).

³ See 63 FR 37630 (July 13, 1998).

⁴ See 82 FR 8082 (January 23, 2017).

⁵ <https://cdr.ffiec.gov/public/ManageFacsimiles.aspx>.

⁶ <https://research.fdic.gov/bankfind/>.

⁷ <https://www5.fdic.gov/EDO/index.html>.

¹ See 52 FR 49379 (December 31, 1987).

administrative orders through the FDIC's Public Information Center.

III. The Proposal

Under section 2222 of the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (EGRPRA),⁸ the FDIC is required to conduct a review at least once every 10 years to identify any outdated or otherwise unnecessary regulations. As part of the EGRPRA review completed in 2017, part 350 was included in the third EGRPRA **Federal Register** notice of regulatory review.⁹ The FDIC did not receive any comments on this regulation in response to that notice. Nevertheless, upon review, the FDIC has determined that part 350 is outdated and no longer necessary and therefore should be eliminated. Part 350 places a burden on insured state nonmember banks and insured state-licensed branches of foreign banks by requiring them to prepare an annual disclosure statement and make available to the public a potentially unlimited number of copies of these statements. This burden was justified in the past because disclosure statements were an effective means for the public to obtain information concerning a bank's financial condition. However, with widespread public access to the internet where more extensive and timely financial information about individual banks, as well as administrative enforcement actions, can be readily obtained, the incremental burden on banks of providing an annual disclosure statement in accordance with a regulation that has become outdated is no longer justified. Furthermore, because part 350 does not apply to insured state savings associations, for which the FDIC became the primary federal regulatory agency in 2011, the proposal would eliminate a difference in the regulatory requirements and resulting regulatory burden imposed on insured state nonmember banks and insured state-licensed branches of foreign banks compared to insured state savings associations. Finally, because regulations similar to part 350 have been rescinded by the FRB and the OCC (as well as the former OTS), the preparation and availability of annual disclosure statements are no longer required by the other federal banking agencies for the institutions under their supervision.

IV. Comments

Consistent with the objectives of section 2222 of EGRPRA, on October 17,

2018, the FDIC Board authorized publication of a notice of proposed rulemaking (NPR) to rescind and remove part 350 from the Code of Federal Regulations. The NPR was published in the **Federal Register** on October 25, 2018, with a 30-day comment period.¹⁰

The FDIC received nine comments addressing the proposed rescission and removal of part 350 from bankers, banking associations, and a consultant. The nine commenters fully supported the proposal. One additional comment was received from an individual, but it did not specifically address the proposed rescission and removal. After considering the comments received, the FDIC is adopting as proposed the rescission and removal of part 350 from the Code of Federal Regulations.

V. Expected Effects

The removal of the requirement that each FDIC-insured state nonmember bank and insured state-licensed branch of a foreign bank prepare, and make available on request, annual disclosure statements will lessen the burden the FDIC imposes on these institutions. As of September 30, 2018, there were 3,493 FDIC-insured state nonmember banks and insured state-licensed branches of foreign banks that would be affected by this final rule.¹¹

The final rule is expected to reduce recordkeeping, reporting, and disclosure requirements for FDIC-insured state nonmember banks and insured state-licensed branches of foreign banks. As discussed in Section III: The Proposal, part 350 requires institutions to prepare an annual disclosure statement and make it available to the public. By removing part 350, the final rule will remove this disclosure burden. The FDIC assumes that 15 percent of the institutions covered by part 350 provide a management discussion and analysis in their annual disclosure statement, and estimates that preparing this material takes each institution 1.5 hours. Assuming the time spent preparing the material is divided equally between a financial analyst and a manager, each earning the 75th percentile wage for their occupation, the estimated annual cost per institution to prepare the material is \$157.82.¹² Based

on the FDIC's estimation that 15 percent of institutions prepare this material, the total annual cost is estimated to be \$82,695, or approximately 0.0001 percent of noninterest expenses for covered institutions.¹³

In addition to the directly measurable cost savings, another potential benefit of the final rule is that it frees up institution staff time that would otherwise have been spent complying with part 350. Theoretically, time previously spent complying with part 350 may now be spent on another task of higher value to the institution. This potential effect is difficult to accurately estimate with available information, but it is likely to be small given that the disclosure burden imposed by part 350 is a relatively small percentage of noninterest expenses.

The final rule removes a disclosure requirement for affected institutions; however, the FDIC believes that the reduction will not have material effects for customers, investors, or counterparties. As discussed in Section III: The Proposal, extensive and timely financial information about individual banks, as well as administrative enforcement actions, can be readily obtained by the public on the internet. Therefore, the FDIC believes that removal of this disclosure requirement will not have substantive effects on financial market participants.

VI. Alternatives Considered

The FDIC considered alternatives, but believes that the rescission and removal of part 350 represents the most appropriate option. In particular, the FDIC considered whether to (1) retain the existing disclosure statement requirement, but to extend it to the

adjusted hourly wage of management occupations as of June 2018 is \$125.21, and for financial analysts is \$85.21. Assuming the 1.5 hours are equally divided between a manager and an analyst, this yields an estimated total annual cost per institution of $(0.75 * \$125.21) + (0.75 * \$85.21) = \$157.82$.

Hourly wages are from the Bureau of Labor Statistics (BLS) May 2017 National Industry-Specific Occupational Employment and Wage Estimates, <https://www.bls.gov/oes/current/oesrci.htm>. Wages are adjusted for inflation through June 2018 using the Seasonally Adjusted All-items Consumer Price Index for All Urban Consumers, <https://data.bls.gov/PDQWeb/cu>. The hourly wages are grossed-up to include benefits based on Employer Cost for Employee Compensation data as of June 2018, <https://www.bls.gov/news.release/pdf/ecec.pdf>. June 2018 is the latest available period of Employer Cost for Employee Compensation data. The data on hourly wages, inflation, and employer cost for employee compensation was extracted on December 14, 2018.

¹³ This equals $524 * \$157.82$, i.e., $(3,493 * 0.15) * \$157.82$, rounded to the nearest dollar. Noninterest expenses are calculated from data reported in the September 30, 2018, Call Report, and annualized.

⁸ Public Law 104–208 (1996), codified at 12 U.S.C. 3311.

⁹ See 80 FR 32046 (June 5, 2015).

¹⁰ See 83 FR 53829 (October 25, 2018).

¹¹ Data from the September 30, 2018, Call Report and FFIEC 002 report.

¹² The annual cost per institution is estimated using the 75th percentile hourly wage for financial analysts and management occupations in the depository credit intermediation industry as of May 2017. This hourly wage is adjusted for inflation, and grossed-up to include benefits, through June 2018. The 75th percentile inflation and benefit-

insured state savings associations now supervised by the FDIC, (2) require that disclosure statements be updated quarterly instead of annually, and/or (3) require the inclusion in disclosure statements of either the entire Call Report (excluding a limited number of items accorded confidential treatment) or financial data comparable to a greater number of specified Call Report schedules. However, with the timely public availability of each institution's quarterly Call Report and UBPR via the FDIC's and the FFIEC's websites, and with the public disclosure of information about enforcement actions taken by the FDIC routinely made available on the FDIC's website, the FDIC believes any extension of part 350 to other institutions, increase in the frequency of disclosure, increase in the scope of disclosure, or combination of these alternatives, imposes additional cost without any corresponding public benefit in terms of access to financial and other information on institutions. Moreover, the FDIC is not aware of any difficulties encountered by the public in obtaining current financial and enforcement action information on institutions supervised by the FRB and the OCC (and those institutions previously supervised by the OTS) via public websites since these agencies eliminated their respective disclosure statement requirements.

VII. Regulatory Analysis and Procedure

A. The Paperwork Reduction Act

In accordance with the requirements of the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3521), the FDIC may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. Part 350 is currently an approved information collection with OMB Control No. 3064–0090. Removing part 350 obviates the need for this collection of information pursuant to the PRA, and FDIC will seek to discontinue its use.

B. The Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires that, in connection with a rulemaking, an agency prepare and make available for public comment a final regulatory flexibility analysis describing the impact of the final rule on small entities.¹⁴ A regulatory flexibility analysis is not required; however, if the agency certifies that the rule will not have a significant

economic impact on a substantial number of small entities. The U.S. Small Business Administration (SBA) has defined “small entities” to include banking organizations with total assets less than or equal to \$550 million.¹⁵

As of September 30, 2018, there are 3,493 FDIC-insured state nonmember banks and FDIC-insured state-licensed branches of foreign banks.¹⁶ Of these, 2,689 are considered small entities for the purposes of RFA. Thus, the FDIC concludes the proposed rule will affect a substantial number of small entities.

The final rule is expected to reduce recordkeeping, reporting, and disclosure requirements for small FDIC-supervised banks. As discussed in Section III: The Proposal, part 350 requires institutions to prepare an annual disclosure statement and make it available to the public. By removing part 350, the final rule will remove this disclosure burden. As discussed in Section IV: Expected Effects, the FDIC estimates the annual cost per institution to prepare the material is \$157.82.¹⁷ Based on the FDIC's estimation that 15 percent of institutions prepare this material, the total annual cost for small FDIC-

¹⁵ The SBA defines a small banking organization as having \$550 million or less in assets, where an organization's “assets are determined by averaging the assets reported on its four quarterly financial statements for the preceding year.” See 13 CFR 121.201 (as amended, effective December 2, 2014). In its determination, the “SBA counts the receipts, employees, or other measure of size of the concern whose size is at issue and all of its domestic and foreign affiliates.” See 13 CFR 121.103. Following these regulations, the FDIC uses a covered entity's affiliated and acquired assets, averaged over the preceding four quarters, to determine whether the covered entity is “small” for the purposes of RFA.

¹⁶ Data from the September 30, 2018, Call Report and FFIEC 002 report.

¹⁷ The annual cost per institution is estimated using the 75th percentile hourly wage for financial analysts and management occupations in the depository credit intermediation industry as of May 2017. This hourly wage is adjusted for inflation, and grossed-up to include benefits, through June 2018. The 75th percentile inflation and benefit-adjusted hourly wage of management occupations as of June 2018 is \$125.21, and for financial analysts is \$85.21. Assuming the 1.5 hours are equally divided between a manager and an analyst, this yields an estimated total annual cost per institution of $(0.75 * \$125.21) + (0.75 * \$85.21) = \$157.82$.

Hourly wages are from the Bureau of Labor Statistics (BLS) May 2017 National Industry-Specific Occupational Employment and Wage Estimates, <https://www.bls.gov/oes/current/oesrsci.htm>. Wages are adjusted for inflation through June 2018 using the Seasonally Adjusted All-items Consumer Price Index for All Urban Consumers, <https://data.bls.gov/PDQWeb/cu>. The hourly wages are grossed-up to include benefits based on Employer Cost for Employee Compensation data as of June 2018, <https://www.bls.gov/news.release/pdf/ecec.pdf>. June 2018 is the latest available period of Employer Cost for Employee Compensation data. The data on hourly wages, inflation, and employer cost for employee compensation was extracted on December 14, 2018.

supervised institutions is estimated to be \$63,599, or less than 0.0005 percent of noninterest expenses for such institutions.¹⁸

Also as described in Section IV above, in addition to the directly measurable cost savings, another potential benefit of the final rule is that it frees up institution staff time that would otherwise have been spent complying with part 350. While this potential effect is difficult to accurately estimate with available information, it is likely to be small given that the disclosure burden imposed by part 350 is a relatively small percentage of noninterest expenses for small FDIC-supervised institutions.

The final rule removes a disclosure requirement for affected institutions; however, the FDIC believes that the reduction will not have material effects for customers, investors, or counterparties. As discussed in Section III: The Proposal, extensive and timely financial information about individual banks, as well as administrative enforcement actions, can be readily obtained by the public on the internet. Therefore, the FDIC believes that removal of this disclosure requirement with have not substantive effects on financial market participants.

Based on the information above, the FDIC certifies that the final rule will not have a significant economic impact on a substantial number of small entities.

C. Small Business Regulatory Enforcement Fairness Act

The OMB has determined that the final rule is not a “major rule” within the meaning of the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).¹⁹ As required by SBREFA, the FDIC will submit the final rule and other appropriate reports to Congress and the Government Accountability Office for review.

D. Plain Language

Section 722 of the Gramm-Leach-Bliley Act, Public Law 106–102, 113 Stat. 1338, 1471, 12 U.S.C. 4809, requires each Federal banking agency to use plain language in all of its proposed and final rules published after January 1, 2000. As a Federal banking agency subject to the provisions of this section, the FDIC has sought to present the final rule to rescind part 350 in a simple and straightforward manner.

¹⁸ This equals $403 * \$157.82$, i.e., $(2,689 * 0.15) * \$157.82$, rounded to the nearest dollar. Noninterest expenses are calculated from data reported in the September 30, 2018, Call Report, and annualized.

¹⁹ 5 U.S.C. 801 *et seq.*

¹⁴ 5 U.S.C. 601 *et seq.*

E. The Economic Growth and Regulatory Paperwork Reduction Act

Under section 2222 of EGRPRA, the FDIC is required to conduct a review at least once every 10 years to identify any outdated or otherwise unnecessary regulations. The FDIC completed its most recent comprehensive review of its regulations under EGRPRA in 2017 and did not receive any comments from the public concerning part 350. The burden reduction evidenced in this final rule is consistent with the objectives of the EGRPRA review process.

F. Riegle Community Development and Regulatory Improvement Act

Under section 302(b) of the Riegle Community Development and Regulatory Improvement Act, 12 U.S.C. 4802(b), new regulations and amendments to regulations prescribed by a Federal banking agency which impose additional reporting, disclosures, or other new requirements on insured depository institutions shall take effect on the first day of a calendar quarter which begins on or after the date on which the regulations are published in final form. Because this rule rescission does not impose additional reporting, disclosures, or other requirements, but rather relieves banks of a disclosure requirement, this rule may take effect prior to the start of the next calendar quarter.

List of Subjects in 12 CFR Part 350

Accounting, Banks, Banking, Reporting and recordkeeping requirements.

Authority and Issuance

PART 350—[REMOVED AND RESERVED]

■ For the reasons stated in the preamble, and under the authority of 12 U.S.C 1817(a)(1), 1819 “Seventh” and “Tenth,” the Board of Directors of the Federal Deposit Insurance Corporation removes and reserves 12 CFR part 350.

Dated at Washington, DC, on March 12, 2019.

By order of the Board of Directors.
Federal Deposit Insurance Corporation.

Robert E. Feldman,
Executive Secretary.

[FR Doc. 2019-04944 Filed 3-15-19; 8:45 am]

BILLING CODE 6714-01-P

FEDERAL HOUSING FINANCE AGENCY

12 CFR Parts 1209, 1217, and 1250

RIN 2590-AB01

Rules of Practice and Procedure; Civil Money Penalty Inflation Adjustment

AGENCY: Federal Housing Finance Agency.

ACTION: Final rule.

SUMMARY: The Federal Housing Finance Agency (FHFA) is adopting this final rule amending its Rules of Practice and Procedure and other agency regulations to adjust each civil money penalty within its jurisdiction to account for inflation, pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015.

DATES: *Effective date:* April 17, 2019.

FOR FURTHER INFORMATION CONTACT: Stephen E. Hart, Deputy General Counsel, at (202) 649-3053, Stephen.Hart@fhfa.gov, or Frank R. Wright, Assistant General Counsel, at (202) 649-3087, Frank.Wright@fhfa.gov (not toll-free numbers); Federal Housing Finance Agency, 400 7th Street SW, Washington, DC 20219. The telephone number for the Telecommunications Device for the Hearing Impaired is: (800) 877-8339 (TDD only).

SUPPLEMENTARY INFORMATION:

I. Background

FHFA is an independent agency of the Federal government, and the financial safety and soundness regulator of the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac) (collectively, the Enterprises), as well as the Federal Home Loan Banks (collectively, the Banks) and the Office of Finance under authority granted by the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (Safety and Soundness Act).¹ FHFA oversees the Enterprises and Banks (collectively, the regulated entities) and the Office of Finance to ensure that they operate in a safe and sound manner and maintain liquidity in the housing finance market in accordance with applicable laws, rules and regulations. To that end, FHFA is vested with broad supervisory discretion and specific civil administrative enforcement powers, similar to such authority granted by Congress to the Federal bank regulatory

agencies.² Section 1376 of the Safety and Soundness Act (12 U.S.C. 4636) empowers FHFA to impose civil money penalties under specific conditions. FHFA's Rules of Practice and Procedure (12 CFR part 1209) (the Enforcement regulations) govern cease and desist proceedings, civil money penalty assessment proceedings, and other administrative adjudications.³ FHFA's Flood Insurance regulation (12 CFR part 1250) governs flood insurance responsibilities as they pertain to the Enterprises.⁴ FHFA's Implementation of the Program Fraud Civil Remedies Act of 1986 regulation (12 CFR part 1217) sets forth procedures for imposing civil penalties and assessments under the Program Fraud Civil Remedies Act (31 U.S.C. 3801 *et seq.*) on any person that makes a false claim for property, services or money from FHFA, or makes a false material statement to FHFA in connection with a claim, where the amount involved does not exceed \$150,000.⁵

The Adjustment Improvements Act

The Federal Civil Penalties Inflation Adjustment Act of 1990 (Inflation Adjustment Act), as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Adjustment Improvements Act), requires FHFA, as well as other federal agencies with the authority to issue civil money penalties (CMPs), to adjust by regulation the maximum amount of each CMP authorized by law that the agency has jurisdiction to administer.⁶ The Adjustment Improvements Act required agencies to make an initial “catch-up” adjustment of their CMPs upon the statute's enactment,⁷ and further requires agencies to make additional adjustments on an annual basis following the initial adjustment.⁸

The Adjustment Improvements Act sets forth the formula that agencies must apply when making annual adjustments, based on the percent change between the October Consumer Price Index for All Urban Consumers (the CPI-U) preceding the date of the last adjustment and the October CPI-U for the year before that.

² *Id.*

³ See 12 CFR part 1209.

⁴ See 12 CFR part 1250.

⁵ See generally, 31 U.S.C. 3801 *et seq.*

⁶ See 28 U.S.C. 2461 note.

⁷ FHFA promulgated its catch-up adjustment of its CMPs with an interim final rule published July 1, 2016. 81 FR 43028.

⁸ FHFA promulgated its first annual adjustment of its CMP with a final rule published August 29, 2018. 83 FR 43965.

¹ See Safety and Soundness Act, 12 U.S.C. 4513 and 4631-4641.

II. Description of the Rule

This final rule adjusts the maximum penalty amount within each of the three tiers specified in 12 U.S.C. 4636 by amending the table contained in 12 CFR 1209.80 of the Enforcement regulations to reflect the new adjusted maximum penalty amount that FHFA may impose upon a regulated entity or any entity-affiliated party within each tier. The increases in maximum penalty amounts contained in this final rule may not necessarily affect the amount of any CMP that FHFA may seek for a particular violation, which may not be the maximum that the law allows; FHFA would calculate each CMP on a case-by-case basis in light of a variety of factors.⁹ This rule also adjusts the maximum penalty amounts for

violations under the FHFA Flood Insurance regulation by amending the text of 12 CFR 1250.3 to reflect the new adjusted maximum penalty amount that FHFA may impose for violations under that regulation. This rule also adjusts the maximum amounts for civil money penalties under the Program Fraud Civil Remedies Act by amending the text of 12 CFR 1217.3 to reflect the new adjusted maximum penalty amount that FHFA may impose for violations under that regulation.

The Adjustment Improvements Act directs federal agencies to calculate each annual CMP adjustment as the percent change between the CPI-U for the previous October and the CPI-U for October of the calendar year before.¹⁰ The maximum CMP amounts for FHFA penalties under 12 U.S.C. 4636 were last

adjusted in 2018.¹¹ Since FHFA is making this round of adjustments in calendar year 2019, and the maximum CMP amounts were last set in calendar year 2018, the inflation adjustment amount for each maximum CMP amount was calculated by comparing the CPI-U for October 2017 with the CPI-U for October 2018, resulting in an inflation factor of 1.02522. For each maximum CMP calculation, the product of this inflation adjustment and the previous maximum penalty amount was then rounded to the nearest whole dollar as required by the Adjustment Improvements Act, and was then summed with the previous maximum penalty amount to determine the new adjusted maximum penalty amount.¹² The tables below set out these items accordingly.

ENFORCEMENT REGULATIONS

U.S. Code citation	Description	Previous maximum penalty amount	Rounded inflation increase	New adjusted maximum penalty amount
12 U.S.C. 4636(b)(1)	First Tier	11,390	287	11,677
12 U.S.C. 4636(b)(2)	Second Tier	56,947	1,436	58,383
12 U.S.C. 4636(b)(4)	Third Tier (Entity-affiliated party or Regulated entity)	2,277,875	57,448	2,335,323

PROGRAM FRAUD CIVIL REMEDIES REGULATION

U.S. Code citation	Description	Previous maximum penalty amount	Rounded inflation increase	New adjusted maximum penalty amount
31 U.S.C. 3802(a)(1)	Maximum penalty per false claim	11,181	282	11,463
31 U.S.C. 3802(a)(2)	Maximum penalty per false statement	11,181	282	11,463

FLOOD INSURANCE REGULATION

U.S. Code citation	Description	Previous maximum penalty amount	Rounded inflation increase	New adjusted maximum penalty amount
42 U.S.C. 4012a(f)(5)	Maximum penalty per violation	554	14	568
42 U.S.C. 4012a(f)(5)	Maximum total penalties assessed against an Enterprise in a calendar year.	159,743	4,029	163,772

III. Differences Between the Federal Home Loan Banks and the Enterprises

When promulgating any regulation that may have future effect relating to the Banks, the Director is required by section 1313(f) of the Safety and Soundness Act to consider the differences between the Banks and the Enterprises with respect to the Banks' cooperative ownership structure, mission of providing liquidity to

members, affordable housing and community development mission, capital structure, and joint and several liability (12 U.S.C. 4513(f)).¹³ The Acting Director considered the differences between the Banks and the Enterprises, as they relate to the above factors, and determined that this final rule is appropriate. The inflation adjustments effected by the final rule are mandated by law, and the special

features of the Banks identified in section 1313(f) of the Safety and Soundness Act can be accommodated, if appropriate, along with any other relevant factors, when determining any actual penalties.

IV. Regulatory Impact

Administrative Procedure Act

FHFA finds good cause that notice and an opportunity to comment on this

⁹ See, e.g., 12 CFR 1209.7(c); FHFA Enforcement Policy, AB 2013-03 (May 31, 2013).

¹⁰ 28 U.S.C. 2461 note.

¹¹ See 83 FR 43965 (August 29, 2018).

¹² 28 U.S.C. 2461 note.

¹³ So in original; no paragraphs (d) and (e) were enacted. See 12 U.S.C.A. 4513 n. 1.

final rule are unnecessary under section 553(b) of the Administrative Procedure Act (APA), 5 U.S.C. 553(b). The Adjustment Improvements Act states that the annual civil money penalty adjustments shall be made notwithstanding the rulemaking provisions of 5 U.S.C. 553. Furthermore, this rulemaking conforms with and is consistent with the statutory directive set forth in the Adjustment Improvements Act. As a result, there are no issues of policy discretion about which to seek public comment. Accordingly, FHFA is adopting these amendments as a final rule.

Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (RFA),¹⁴ an agency must prepare a regulatory flexibility analysis for all proposed and final rules that describes the impact of the rule on small entities, unless the head of an agency certifies that the rule will not have “a significant economic impact on a substantial number of small entities.” However, the RFA applies only to rules for which an agency publishes a general notice of proposed rulemaking pursuant to the APA.¹⁵ As discussed above, FHFA has determined for good cause that the APA does not require a general notice of proposed rulemaking for this rule. Thus,

the RFA does not apply to this final rule.

Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) requires that regulations involving the collection of information receive clearance from the Office of Management and Budget (OMB). This rule contains no such collection of information requiring OMB approval under the Paperwork Reduction Act. Consequently, no information has been submitted to OMB for review.

Congressional Review Act

In accordance with the Congressional Review Act,¹⁶ FHFA has determined that this final rule is not a major rule and has verified this determination with OMB.

Lists of Subjects

12 CFR Part 1209

Administrative practice and procedure, Penalties.

12 CFR Part 1217

Civil remedies, Program fraud.

12 CFR Part 1250

Flood insurance, Government-sponsored enterprises, Penalties,

Reporting and recordkeeping requirements.

Accordingly, for the reasons stated in the **SUPPLEMENTARY INFORMATION** and under the authority of 12 U.S.C. 4513b and 12 U.S.C. 4526, the Federal Housing Finance Agency hereby amends subchapters A and C of chapter XII of title 12 of the Code of Federal Regulations as follows:

SUBCHAPTER A—ORGANIZATION AND OPERATIONS

PART 1209—RULES OF PRACTICE AND PROCEDURE

■ 1. The authority citation for part 1209 continues to read as follows:

Authority: 5 U.S.C. 554, 556, 557, and 701 *et seq.*; 12 U.S.C. 1430c(d); 12 U.S.C. 4501, 4502, 4503, 4511, 4513, 4513b, 4517, 4526, 4566(c)(1) and (c)(7), 4581–4588, 4631–4641; and 28 U.S.C. 2461 note.

■ 2. Revise § 1209.80 to read as follows:

§ 1209.80 Inflation adjustments.

The maximum amount of each civil money penalty within FHFA’s jurisdiction, as set by the Safety and Soundness Act and thereafter adjusted in accordance with the Inflation Adjustment Act, is as follows:

U.S. Code citation	Description	New adjusted maximum penalty amount
12 U.S.C. 4636(b)(1)	First Tier	\$11,677
12 U.S.C. 4636(b)(2)	Second Tier	58,383
12 U.S.C. 4636(b)(4)	Third Tier (Regulated Entity or Entity-Affiliated party)	2,335,323

■ 3. Revise § 1209.81 to read as follows:

§ 1209.81 Applicability.

The inflation adjustments set out in § 1209.80 shall apply to civil money penalties assessed in accordance with the provisions of the Safety and Soundness Act, 12 U.S.C. 4636, and subparts B and C of this part, for violations occurring after April 17, 2019.

PART 1217—PROGRAM FRAUD CIVIL REMEDIES ACT

■ 4. The authority citation for part 1217 continues to read as follows:

Authority: 12 U.S.C. 4501; 12 U.S.C. 4526, 28 U.S.C. 2461 note; 31 U.S.C. 3801–3812.

■ 5. Amend § 1217.3 by revising paragraphs (a)(1) introductory text and

(b)(1) introductory text to read as follows:

§ 1217.3 Basis for civil penalties and assessments.

(a) * * * (1) A civil penalty of not more than \$11,463 may be imposed upon a person who makes a claim to FHFA for property, services, or money where the person knows or has reason to know that the claim:

* * * * *

(b) * * * (1) A civil penalty of up to \$11,463 may be imposed upon a person who makes a written statement to FHFA with respect to a claim, contract, bid or proposal for a contract, or benefit from FHFA that:

* * * * *

SUBCHAPTER C—ENTERPRISES

PART 1250—FLOOD INSURANCE

■ 6. The authority citation for part 1250 continues to read as follows:

Authority: 12 U.S.C. 4521(a)(4) and 4526; 28 U.S.C. 2461 note; 42 U.S.C. 4001 note; 42 U.S.C. 4012a(f)(3), (4), (5), (8), (9), and (10).

■ 7. Amend § 1250.3 by revising paragraph (c) to read as follows:

§ 1250.3 Civil money penalties.

* * * * *

(c) *Amount.* The maximum civil money penalty amount is \$554 for each violation that occurs before April 17, 2019, with total penalties not to exceed \$159,743. For violations that occur on or after April 17, 2019, the civil money penalty under this section may not exceed \$568 for each violation, with total penalties assessed under this

¹⁴ 5 U.S.C. 603.

¹⁵ 5 U.S.C. 603(a), 604(a).

¹⁶ See 5 U.S.C. 804(2).

section against an Enterprise during any calendar year not to exceed \$163,772.

* * * * *

Dated: March 7, 2019.

Joseph M. Otting,

Acting Director, Federal Housing Finance Agency.

[FR Doc. 2019-04943 Filed 3-15-19; 8:45 am]

BILLING CODE 8070-01-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

[Docket No.: FAA-2019-0200]

Operators of Boeing Company Model 737-8 and Boeing Company Model 737-9 Airplanes: Emergency Order of Prohibition

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

ACTION: Notification of Emergency Order of Prohibition.

SUMMARY: This Emergency Order of Prohibition is issued by the Federal Aviation Administration (FAA). Effective March 13, 2019, this Order prohibits the operation of Boeing Company Model 737-8 and Boeing Company Model 737-9 airplanes by U.S. certificated operators. This Order also prohibits the operation of Boeing Company Model 737-8 and Boeing Company Model 737-9 series airplanes in the territory of the United States. Airplanes covered by this Order, if in flight at the time this Order is issued, may proceed to and complete their soonest planned landing, but may not again takeoff.

DATES: The Emergency Order of Prohibition is effective March 13, 2019.

FOR FURTHER INFORMATION CONTACT: John Piccola, Federal Aviation Administration, Aircraft Certification Service, System Oversight Division, AIR-800, 2200 South 216th Street, Des Moines, WA 98198 (Email: john.piccola@faa.gov; Tel: 206-231-3595).

SUPPLEMENTARY INFORMATION: The full text of the Emergency Order of Prohibition issued March 13, 2019 is set forth below:

Emergency Order of Prohibition

This Emergency Order of Prohibition is issued by the Federal Aviation Administration (FAA) pursuant to 49 U.S.C. 40113(a) and 46105(c). Effective immediately, this Order prohibits the

operation of Boeing Company Model 737-8 and Boeing Company Model 737-9 airplanes by U.S. certificated operators. This Order also prohibits the operation of Boeing Company Model 737-8 and Boeing Company Model 737-9 series airplanes in the territory of the United States. Airplanes covered by this Order, if in flight at the time this Order is issued, may proceed to and complete their soonest planned landing, but may not again takeoff.

Authority

The FAA Administrator promotes the safe flight of civil aircraft by, among other things, prescribing minimum standards for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. 49 U.S.C. 44701(a)(5). The FAA Administrator is authorized to take necessary and appropriate actions to carry out his aviation safety duties and powers under part A (“Air Commerce and Safety”) of subtitle VII of Title 49 of the United States Code, including conducting investigations, issuing orders, and prescribing regulations, standards, and procedures. 49 U.S.C. 40113(a). When the Administrator determines that an emergency exists related to safety in air commerce and requires immediate action, the Administrator may issue immediately effective orders to meet the emergency. 49 U.S.C. 46105(c).

Scope and Effect

This Order applies to all persons operating the Boeing Company Model 737-8 and Boeing Company Model 737-9 airplanes in the territory of the United States, and to U.S. certificated operators conducting flights with Boeing Company Model 737-8 and Boeing Company Model 737-9 airplanes. These airplanes are hereinafter referred to as the Boeing 737 MAX series airplanes.

This Order is effective immediately. This Order prohibits the operation of Boeing 737 MAX series airplanes by U.S. certificated operators. This Order also prohibits the operation of Boeing 737 MAX series airplanes in the territory of the United States. Boeing 737 MAX series airplanes covered by this Order, if in flight at the time this Order is issued, may proceed to and complete their soonest planned landing, but may not again takeoff. Special flight permits may be issued in accordance with 14 CFR 21.197 and 21.199, including to allow non-passenger carrying flights, as needed, for purposes of flight to a base for storage, production flight testing, repairs, alterations, or maintenance. Experimental airworthiness certificates may be issued

in accordance with 14 CFR 21.191 to support certification of design changes.

This Order remains in effect until the issuance of an applicable FAA order rescinding or modifying this Order. The Administrator will rescind or modify this Order, as appropriate, if the Administrator determines that the prohibitions prescribed herein are no longer necessary to address an emergency related to safety in air commerce.

Basis for Order

Based on the initial investigations and the reliable and credible evidence presently available, the Acting Administrator finds that:

1. On October 29, 2018, a Boeing Company Model 737-8 operated by Lion Air as flight JT610 crashed after taking off from Soekarno-Hatta Airport in Jakarta, Indonesia. Flight JT610 departed from Jakarta with an intended destination of Pangkal Pinang, Indonesia. It departed Jakarta at 6:20 a.m. (local time), and crashed into the Java Sea approximately 13 minutes later. One hundred and eighty-four passengers and five crewmembers were on board. There were no survivors. An Indonesian-led investigation into the cause of this accident is ongoing, supported by the National Transportation Safety Board (NTSB), FAA, and Boeing.

2. On March 10, 2019, Ethiopian Airlines flight ET302, also a Boeing Company Model 737-8, crashed at 8:44 a.m. (local time), six minutes after takeoff. The flight departed from Bole International Airport in Addis Ababa, Ethiopia with an intended destination of Nairobi, Kenya. The accident site is near Bishoftu, Ethiopia. One hundred and forty-nine passengers and eight crewmembers were on board. None survived. An Ethiopian-led investigation into the cause of this accident is ongoing, supported by the NTSB, FAA, and Boeing.

3. The Boeing Company Model 737-8 and the Boeing Company Model 737-9 comprise the Boeing 737 MAX series, sharing nearly identical design features. The Boeing 737 MAX series airplanes are narrow-body airplanes with two high-bypass turbofan engines. The Boeing 737 MAX series airplanes are used for passenger carrying operations and are equipped with new CFM LEAP-1B engines and larger cockpit displays.

Under 49 U.S.C. 46105(c), the Acting Administrator has determined that an emergency exists related to safety in air commerce. On March 13, 2019, the investigation of the ET302 crash developed new information from the wreckage concerning the aircraft's

configuration just after takeoff that, taken together with newly refined data from satellite-based tracking of the aircraft's flight path, indicates some similarities between the ET302 and JT610 accidents that warrant further investigation of the possibility of a shared cause for the two incidents that needs to be better understood and addressed. Accordingly, the Acting Administrator is ordering all Boeing 737 MAX airplanes to be grounded pending further investigation.

This Order is effective immediately. While this Order remains in effect, the FAA intends to initiate a proceeding, as appropriate, to address the factors that contributed to the two previously discussed accidents involving Boeing 737 MAX series airplanes.

Consequences of Failure To Comply With This Order

Any person who fails to comply with this Order is subject to a civil penalty for each flight found not to comply. Small business concerns and individuals (other than persons serving as an airman) are subject to a civil penalty of up to \$13,333 per flight. See 49 U.S.C. 46301(a)(5)(A)(ii), 14 CFR 13.301. A person serving as an airman on a flight operated in violation of this Order is subject to a civil penalty of up to \$1,466 per flight or a certificate action, up to and including revocation. See 49 U.S.C. 46301(a)(1)(B) and 44709(b)(1)(A), 14 CFR 13.301. An air carrier violating this Order is subject to certificate action, up to and including revocation. See *id.* Any person failing to comply with this Order may be subject to a cease and desist order or a civil action in a United States district court to ensure compliance. See 49 U.S.C. 44103(a) and 46106.

Right of Review

Pursuant to 49 U.S.C. 46110(a), a person with a substantial interest in this Order “may apply for review of the order by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit or in the court of appeals of the United States for the circuit in which the person resides or has its principal place of business.” The petition must be filed within 60 days after the date of this Order. 49 U.S.C. 46110(a).

Emergency Contact Official

Direct any questions concerning this Emergency Order of Prohibition, to John Piccola, Federal Aviation Administration, Aircraft Certification Service, System Oversight Division, AIR-800, 2200 South 216th Street, Des Moines, WA 98198 (email: john.piccola@faa.gov; Tel: 206-231-3595).

Issued in Washington, DC, on March 13, 2019.

Daniel K. Elwell,
Acting Administrator.

[FR Doc. 2019-05067 Filed 3-13-19; 5:00 pm]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 112

[Docket No. FDA-2011-N-0921]

RIN 0910-AH93

Standards for the Growing, Harvesting, Packing, and Holding of Produce for Human Consumption; Extension of Compliance Dates for Subpart E

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA, the Agency, or we) is extending, for covered produce other than sprouts, the dates for compliance with the agricultural water provisions in the “Standards for the Growing, Harvesting, Packing, and Holding of Produce for Human Consumption” rule. We are extending the compliance dates to address questions about the practical implementation of compliance with certain provisions and to consider how we might further reduce the regulatory burden or increase flexibility while continuing to protect public health.

DATES: As of March 18, 2019 the compliance dates for the agricultural water provisions (subpart E) in the Standards for the “Growing, Harvesting, Packing, and Holding of Produce for Human Consumption” rule (November 27, 2015, 80 FR 74354), for covered

produce other than sprouts, are delayed to January 26, 2024, for very small businesses; January 26, 2023, for small businesses; and January 26, 2022, for all other businesses.

FOR FURTHER INFORMATION CONTACT:

Samir Assar, Center for Food Safety and Applied Nutrition (HFS-317), Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240-402-1636.

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I. Executive Summary

The final rule extends, for covered produce other than sprouts, the dates for compliance with the agricultural water provisions in the “Standards for the Growing, Harvesting, Packing, and Holding of Produce for Human Consumption” rule. The agricultural water provisions are contained in subpart E of that rule. We are also simplifying the compliance date structure under subpart E as applied to non-sprout covered produce, while retaining date-staggering based on size. The new compliance dates for the agricultural water requirements in subpart E for non-sprout covered produce are January 26, 2024, for very small businesses; January 26, 2023, for small businesses; and January 26, 2022, for all other businesses.

The final rule does not alter the requirements in subpart E and therefore the estimated costs and benefits accrued in any given year of compliance with the produce safety regulation, relative to the first year of compliance, do not change. However, because the compliance dates for the agricultural water provisions are extended, the discounted value of both total costs and total benefits decrease.

The impact of this final rule is summarized in the following table.

TABLE 1—SUMMARY OF CHANGES TO BENEFITS AND COSTS AS A RESULT OF THE FINAL RULE

Category	Primary estimate	Units		
		Year dollars	Discount rate (%)	Period covered
Forgone Benefits:				

TABLE 1—SUMMARY OF CHANGES TO BENEFITS AND COSTS AS A RESULT OF THE FINAL RULE—Continued

Category	Primary estimate	Units		
		Year dollars	Discount rate (%)	Period covered
Annualized	\$96	2017	7	2016–2025
Monetized \$millions/year	104	2017	3	2016–2025
Forgone Costs:				
Annualized	10	2017	7	2016–2025
Monetized \$millions/year	12	2017	3	2016–2025

II. Background

This extension of compliance dates concerns one of the seven foundational rules that we have established in Title 21 of the Code of Federal Regulations (21 CFR), Part 112 as part of our implementation of the FDA Food Safety Modernization Act (FSMA; Pub. L. 111–353): “Standards for the Growing, Harvesting, Packing, and Holding of Produce for Human Consumption” (the produce safety regulation, published in the **Federal Register** of November 27, 2015, 80 FR 74354) (<https://www.fda.gov/fsma>). We proposed this extension in a proposed rule published on September 13, 2017 (82 FR 42963). We have reviewed the comments submitted in response to the proposed rule, and we respond to those comments in section II. In this final rule we are extending the compliance dates as proposed.

In the preamble of the final rule establishing the produce safety regulation, we stated that the produce

safety regulation would be effective on January 26, 2016, and provided for compliance dates of 1 to 6 years from the effective date depending on farm size, commodity, and provision(s) (see table entitled “compliance dates” in the preamble of the final rule establishing the produce safety regulation, 80 FR 74354 at 74357, as corrected in a technical amendment at 81 FR 26466, May 3, 2016). (Some of the compliance dates identified in the technical amendment fall on weekends (*i.e.*, January 26, 2019, is a Saturday and January 26, 2020, is a Sunday) and should therefore be read as referring to the next business day (*i.e.*, January 28, 2019, and January 27, 2020, respectively). We use the latter dates throughout this document.)

For the majority of agricultural water provisions at subpart E (and for most of the other provisions in the rule), with respect to covered produce other than sprouts, we provided compliance periods of 4 years from the effective date

of the rule for very small businesses, 3 years for small businesses, and 2 years for all other businesses.¹ We provided an additional 2 years beyond those compliance periods for certain water quality requirements in § 112.44 and related provisions in §§ 112.45 and 112.46. See table 2.

In a final rule, “The Food and Drug Administration Food Safety Modernization Act; Extension and Clarification of Compliance Dates for Certain Provisions of Four Implementing Rules” (81 FR 57784, August 24, 2016) we also extended the compliance date for certain “customer provisions” in four of the seven foundational rules that we have established as part of our implementation of FSMA, including the produce safety regulation (§ 112.2(b)(3)). In that final rule, we also clarified how we interpret the compliance dates for certain agricultural water testing provisions established in the produce safety regulation.

TABLE 2—AS STATED IN PRODUCE SAFETY REGULATION, COMPLIANCE DATES FOR REQUIREMENTS IN SUBPART E (AGRICULTURAL WATER) FOR COVERED ACTIVITIES INVOLVING COVERED PRODUCE (EXCEPT SPROUTS SUBJECT TO SUBPART M)

Compliance dates of 2–4 years applicable to the farm based on its size	Extended compliance date of additional 2 years beyond the compliance date based on size of farm
§ 112.41. § 112.42. § 112.43. § 112.45(b). § 112.45(a) with respect to safe and adequate standard. § 112.46(a). § 112.46(b)(1) with respect to untreated surface water. § 112.47. § 112.48. § 112.49. § 112.50.	§ 112.44. § 112.45(a) with respect to § 112.44(a) criterion. § 112.46(b)(1) with respect to untreated ground water. § 112.46(b)(2) and (b)(3). § 112.46(c).

FDA has received feedback from numerous stakeholders raising issues regarding the practicality of some of the agricultural water requirements in the produce safety regulation as applied to

covered produce other than sprouts. Many of these concerns relate to the testing requirements for pre-harvest agricultural water, which are different for sprouts than they are for other types

of covered produce. We are extending these compliance dates in light of the feedback we have received. Additional time allows us to consider how to approach these issues.

¹ Under the produce safety regulation, a farm is a very small business if, on a rolling basis, the average annual monetary value of produce it sold

during the previous 3-year period is no more than \$250,000. A farm is a small business if, on a rolling basis, the average annual monetary value of

produce it sold during the previous 3-year period is no more than \$500,000; and the farm is not a very small business. See 21 CFR 112.3.

As part of this extension, we are simplifying the subpart E compliance period structure such that all the compliance dates for subpart E provisions as applied to non-sprout covered produce will occur at the same time, retaining date-staggering based on farm size. Accordingly, covered farms

will have 2 years beyond the previously published compliance dates for the water quality requirements in § 112.44 and related provisions in §§ 112.45 and 112.46, to comply with all of subpart E. Put another way, we are extending the compliance dates for provisions in the first column of table 2 by 4 years and

extending the compliance dates for provisions in the second column of table 2 by 2 years, so that the compliance dates for non-sprout covered produce for all provisions of subpart E are those listed in table 3.

TABLE 3—COMPLIANCE DATES FOR REQUIREMENTS IN SUBPART E FOR COVERED ACTIVITIES INVOLVING COVERED PRODUCE (EXCEPT SPROUTS SUBJECT TO SUBPART M)

Size of covered farm	Time periods starting from the effective date of the November 27, 2015, produce safety final rule (January 26, 2016)	
	Compliance period	Compliance date
Very Small Business	8 years	January 26, 2024.
Small Business	7 years	January 26, 2023.
All Other Businesses	6 years	January 26, 2022.

This rule is limited in scope to extending the compliance dates for covered produce other than sprouts. The rule does not address the underlying requirements in subpart E, but only the compliance dates for those requirements (for covered produce other than sprouts).

We conducted a qualitative assessment of risk of hazards associated with produce production during the produce safety rulemaking, which indicates that agricultural water is a potential route of contamination of produce during growing, harvesting, and on-farm postharvest activities and that use of poor agricultural practices could lead to contamination and illness even where the potential for contamination is relatively low. We remain firmly committed to science-based minimum standards directed to agricultural water to minimize the risk of serious adverse health consequences or death from the use of, or exposure to, covered produce, including those reasonably necessary to prevent the introduction of known or reasonably foreseeable hazards into covered produce, and to provide reasonable assurances that the produce is not adulterated under section 402 of the Federal Food, Drug, and Cosmetic Act

(FD&C Act) (21 U.S.C. 342). To that end, we have been pursuing and will continue to pursue a rigorous stakeholder engagement plan in the coming months as we consider the practical implementation of the agricultural water requirements and how to best achieve these important public health objectives. Along with farmers and others in the produce industry, in February 2018 we participated in a summit at which participants proposed and discussed potential approaches to addressing concerns with the existing agricultural water requirements. We are also continuing visits to farms throughout the country to further refine our understanding of the myriad variations in agricultural water sources and uses. We will continue to consult with experts in produce safety, water systems, and water microbiology, from both the public and private sectors, to take advantage of the very latest scientific developments and conclusions, particularly around water quality criteria, sampling, and testing.

This rule does not change the compliance dates for sprouts. In the final produce safety regulation, we provided staggered compliance periods based on farm size for covered activities

involving sprouts. The compliance date for activities involving sprouts for very small businesses is January 28, 2019. The compliance date for activities involving sprouts for small businesses is January 26, 2018. The compliance date for activities involving sprouts for all other businesses is January 26, 2017. The final produce safety regulation established sprout-specific requirements on multiple topics, including agricultural water. The agricultural water requirements for sprouts are different from the agricultural water requirements for other produce commodities (compare §§ 112.44(a)(1) and 112.44(b)). We have not received any significant feedback from sprout farms that subpart E has posed particular challenges. Accordingly, as proposed, we are not taking action with regard to compliance dates for activities involving sprouts.

Table 4 summarizes the compliance dates for the produce safety regulation based on this final rule. Time periods start from the effective date of the produce safety rule (January 26, 2016) except as otherwise specified.

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Table 4.--Compliance Dates for the Produce Safety Regulation Under this Final Rule (21 CFR Part 112)

Size of Farm	Compliance Dates Relating to Covered Activities on Covered Farms			Compliance Dates Relating to Certain Exemptions								
	Covered activities involving sprouts covered under subpart M (i.e., subject to all requirements of Part 112)	Covered activities involving all other covered produce (i.e., subject to part 112, except subpart M)		Farms eligible for a qualified exemption (if applicable)				Farms relying on the exemption in § 112.2(b) for produce that receives commercial processing that adequately reduces microorganisms of public health concern				
		Agricultural water requirements in subpart E	All other requirements	Retention of records supporting eligibility in §112.7(b)	Modified requirement in § 112.6(b)(1)	All other requirements in §§ 112.6 and 112.7 for farms producing sprouts	All other requirements in §§ 112.6 and 112.7 for farms not producing sprouts	Requirement to obtain customer written assurances in § 112.2(b)(3) for sprouts that would otherwise be subject to	All other requirements in § 112.2(b) for sprouts that would otherwise be subject to subpart M	Requirement to obtain customer written assurances in § 112.2(b)(3) for all other produce that would otherwise be covered	All other requirements in § 112.2(b) for all other produce that would otherwise be covered	
Very Small Businesses	3 years (Jan. 28, 2019)	8 years (Jan. 26, 2024)	4 years (Jan. 27, 2020)	Effective date of rule (Jan. 26, 2016)	Jan. 1, 2020	3 years (Jan. 28, 2019)	4 years (Jan. 27, 2020)	5 years (Jan. 26, 2021)	3 years (Jan. 28, 2019)	6 years (Jan. 26, 2022)	4 years (Jan. 27, 2020)	
Small Businesses	2 years (Jan. 26, 2018)	7 years (Jan. 26, 2023)	3 years (Jan. 28, 2019)			2 years (Jan. 26, 2018)	3 years (Jan. 28, 2019)	4 years (Jan. 27, 2020)	2 years (Jan. 26, 2018)	5 years (Jan. 26, 2021)	3 years (Jan. 28, 2019)	
All Other Businesses	1 year (Jan. 26, 2017)	6 years (Jan. 26, 2022)	2 years (Jan. 26, 2018)	N/A				3 years (Jan.28, 2019)	1 year (Jan. 26, 2017)	4 years (Jan. 27, 2020)	2 years (Jan. 26, 2018)	

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III. Analysis and Response to Public Comments

In response to the proposed rule, we received comments from covered farms, consumer protection groups, groups representing these stakeholders, and state governments. Many of the comments were supportive of the proposed extension and simplification of compliance dates. In this final rule, we respond to comments related to whether FDA should extend the compliance dates and simplify the

compliance date structure for the agricultural water requirements for covered produce other than sprouts. We did not consider and do not address comments that raised issues beyond the narrow scope of the proposed rule, including comments related to withdrawal or modifications to subpart E or comments related to broader policy issues. FDA will take these additional comments into consideration as we consider approaches to address agricultural water requirements. In this final rule we also do not address specific questions on the produce safety

regulation, but the Technical Assistance Network remains an available resource for such questions (<https://www.fda.gov/food/guidanceregulation/fsma/ucm459719.htm>). We have summarized the relevant comments received and provided our responses below.

(Comment 1) Many comments supported the proposed extension of compliance dates for the agricultural water provisions for covered produce other than sprouts. One comment stated that the extension would allow covered farms an opportunity to continue a dialogue with FDA around the best

approaches to implementing the agricultural water provisions. An association said it “strongly supported” the proposed extension, that the agricultural water provisions are very complex, and explained it had been working to educate its members about the requirements but found that developing practical advice was a challenge given the complexity. Another organization expressed its support for the proposed extension and stated that the agricultural water provisions are complicated and difficult to understand. Another individual wrote in support of the extension, contending that covered farms and other stakeholders have been confused by the requirements, and opined that an extension would be particularly helpful to smaller covered farms that could use the additional time to understand and implement these provisions.

(Response 1) These comments are consistent with the feedback we have been receiving on the complexity of the agricultural water provisions from stakeholders since the produce safety final rule published in 2015. We have repeatedly heard the message relayed in these comments—that the requirements of subpart E, particularly the sampling and testing provisions, are complicated to understand, and questions remain about how to implement them in a practical manner. Accordingly, we have decided to finalize the extension as proposed.

(Comment 2) Some comments opposed FDA’s proposal to extend the compliance dates because they did not believe we had sufficiently justified the proposed delay, or its length. These comments noted that the compliance dates for certain agricultural water testing requirements were already later than the compliance dates for the rest of the produce safety regulation. These comments also stated that FDA had already sufficiently addressed stakeholder concerns through the rulemaking process, noting that we revised the agricultural water requirements as a result of comments on the proposed and supplemental rules. Some comments also encouraged the Agency to withdraw the proposed rule and focus on implementing the produce safety regulation on time; these comments also noted the public health benefits of the produce safety regulation.

(Response 2) While we share the goal of public health expressed in these comments, we believe that a delay is necessary and justified for reasons different than those set out in the final rule for the changes to the agricultural water requirements. The feedback we

have received since the final rule was published about the complexity and the attendant challenges with the produce safety regulation’s agricultural water requirements has been frequent and consistent and has come from growers of many commodities in many regions. This feedback is new and is in addition to the comments on the proposed rule. Since the final rule was published, many covered farms, both individually and in groups via associations, have strenuously expressed concerns, particularly around the complexity of the sampling and testing provisions. On numerous farm visits and industry gatherings across the country, stakeholders have frequently communicated to us that they view the agricultural water regulatory scheme as too complex and too burdensome, and have objected that it does not sufficiently allow for a variety of water uses and availabilities. In the face of these widespread and steady concerns, including new concerns that were not expressed in response to the proposed rule, we proposed this compliance date extension, for the purpose of further engaging stakeholders and determining what can be done to consider and address the concerns we have heard. Many comments to this docket repeat and reinforce what we have been hearing. We therefore conclude it is in the public’s interest for us to institute this delay so that we may further collaborate with an array of stakeholders and pursue solutions that will allow us to achieve the shared goal of improved produce safety in a way that is more workable for covered farms.

The length of this delay in compliance dates was chosen to allow us sufficient time to explore these challenges with stakeholders and experts, and pursue solutions that improve the workability of these provisions. Covered farms also need a significant amount of time to prepare for compliance after the solutions are determined. A shorter time period would not have been sufficient for both robust stakeholder engagement and for covered farms to transition to implementation.

(Comment 3) Some comments opposed FDA’s proposal to extend the agricultural water compliance dates, in general because they concluded the extension would harm consumers more than it would help covered farms. Some of these comments noted that FDA’s cost-benefit analysis indicates that this delay would impose a burden on consumers that outweighs any gains that may accrue to producers. Some comments contended that the extension has the potential to increase the risk of

illness and death by potentially more than 730,000 additional cases of foodborne illness. Some comments noted that the proposed compliance date extension would mean covered farms would not be required to comply with these provisions until 11–13 years after FSMA was enacted, thereby delaying benefits to the public.

(Response 3) FDA remains committed to ensuring that the produce safety rule addresses the risks associated with agricultural water. We note that produce remains subject to the adulteration provisions of the FD&C Act during this extension of the compliance dates, and the agency encourages farms to focus their attention on good agricultural practices to maintain and protect the quality of their water sources. (See, e.g., FDA’s “Guide to Minimize Microbial Food Safety Hazards for Fresh Fruits and Vegetables,” at <https://www.fda.gov/Food/GuidanceRegulation/GuidanceDocumentsRegulatoryInformation/ucm064574.htm>). We have, however, determined that it will serve the public health best to take time now to engage stakeholders and discern how best to achieve public health protections in the covered produce agricultural water arena. FDA believes that ignoring the widespread concerns raised about complexity and serious questions about how the requirements can be implemented in practical ways on farms is also likely to reduce the estimated public health benefits of the agricultural water provision of the rule. Farms that cannot understand the requirements and determine how to implement the requirements are not likely to be realizing full food safety measures. We thus believe it is critical to address the issues we have heard about the complexity of the final rule and the diversity of use and source of agricultural water, and the variety of factors that impact agricultural water. The agency also believes that further collaboration with stakeholders to understand the source of the complexity and develop practical solutions is necessary to best allow us to achieve the shared goal of improved produce safety in a way that is more workable for covered farms.

The economic analysis we conducted for the produce safety final rule, in keeping with our standard practice, evaluated the costs and benefits of the rule in its first 10 years, or 2016–2025. We analyzed the costs and benefits of this extension over the same time horizon (2016–2025). We estimated that this extension would translate to a savings of \$12 (10) million for covered farms (annualized at 3 (7) percent over

those 10 years), because we estimated covered farms would delay making additional investments to initially comply with the agricultural water provisions until the arrival of the extended compliance dates. Because our economic analysis spans ten years starting with the produce safety rule effective date, the delay in those initial investments shows as a savings over those 10 years, but over the longer term may be viewed as costs deferred rather than saved. Using the same time horizon (2016–2025), we also estimated that this extension would reduce expected benefits from the rule as a whole during those 10 years from \$800 (\$740) million to \$696 (\$644) million, annualized at 3 percent (7 percent) over those 10 years.

We do not know how the commenter arrived at the estimate that this extension could contribute to more than 730,000 additional cases of foodborne illness. We estimate that approximately 31,300 illnesses would not be prevented during the specified 10-year time horizon as a result of this extension.² Because we have not yet decided how to address the concerns that have been raised about the practicality of the requirements, we cannot estimate the economic impact or the effect on foodborne illness rates of any solutions that we might implement in the future.

With the delay of the compliance dates, we intend to lay the groundwork for a successful implementation, which will benefit all stakeholders. We will use this time to engage with all stakeholders and consult with experts to determine how to implement, explain, and/or revise the agricultural water provisions in ways that reduce complexity and improve their workability for covered farms while still attaining for the public the benefits of science-based agricultural water standards for covered produce. We will also use the time to continue our outreach and educational efforts, so that the myriad types of covered farms will have the opportunity to prepare for successful implementation.

(Comment 4) Some comments opposed FDA's proposal to extend compliance dates because they felt that the proposed rule was too broad in that it extends the compliance date for other

agricultural water provisions in subpart E that are not dependent on an analysis of multiyear water profile (*e.g.*, requirement for growers to inspect and repair water distribution infrastructure, monitor for the buildup of organic material in wash tanks and coolers, maintain and monitor the temperature of water to minimize microbiological risk, and keeping records of the scientific support for food safety interventions). Comments argued that some subpart E requirements are not complex, and it would not be difficult for covered farms to comply with such requirements by the original compliance dates. Comments also noted some third-party audits require compliance with standards that are similar to parts of subpart E, implying that some covered farms are already complying with similar provisions for that purpose.

(Response 4) FDA considered proposing to extend just the provisions in subpart E that, under the produce safety final rule, had a compliance date 2 years later than the rest of subpart E (see table 2), but we determined that there were other provisions in subpart E that were equally complex and challenging for stakeholders, particularly other sampling and testing provisions (see, *e.g.*, § 112.46(b)(1) (testing requirement originally subject to the “earlier” compliance date in the context of untreated surface water)). Accordingly, retaining the original bifurcated structure was not an option. We have heard repeatedly from stakeholders that the compliance date structure under subpart E is confusing, so extending compliance dates for both a subset of the originally-not-extended provisions of subpart E, together with the originally-extended provisions of subpart E, would mean adding another layer of confusion to the subpart E compliance date situation, and that did not seem wise or workable.

Some third-party audits include agricultural water requirements with which farms must comply to obtain a passing audit or certification, and some of those requirements may be similar to provisions in subpart E. Although some segments of the industry do undergo third-party audits, that fact did not dissuade us from the conclusion that there is a need to extend the compliance date for all of subpart E (for covered produce other than sprouts), which is based on significant feedback received from stakeholders since publication of subpart E in the produce safety final rule as well as comments on the extension proposed rule.

(Comment 5) Some comments argued that FDA failed to explain the nature of the confusion over the rule's

compliance date structure that caused us to propose a simplification to that structure.

(Response 5) As evidenced by other comments, there was confusion over the compliance dates in subpart E and some stakeholders found it challenging to discern exactly which regulatory requirements were subject to the longer compliance period. One comment noted that simply determining the relevant compliance date is a challenge and said simplifying the compliance date structure would help. Other comments noted being confused by the existing compliance date structure. We conclude there is sufficient justification for us to simplify the subpart E compliance date structure.

(Comment 6) Even with the compliance date extension and simplification we proposed in September 2017 and are finalizing here, some comments expressed confusion about the meaning of the compliance date with respect to initiating sampling versus completing the microbial water quality profile (MWQP). One comment specifically requested that the new compliance dates mean the dates on which farms must start to conduct the initial survey to develop the MWQP.

(Response 6) Farms are not required to have completed a MWQP by their compliance date. A farm's compliance date means the date on which the farm must begin sampling a water source for its initial survey, which will eventually result in a MWQP.

We note that this issue was addressed in the 2016 final rule that extended and clarified compliance dates for certain FSMA provisions (81 FR 57784 at 57793–94). However, we recognize that there is still confusion about when the MWQP must be completed under the simplified compliance date structure we are finalizing here. We are therefore clarifying that farms are not required to have already developed a completed MWQP as of their new compliance date. Rather, farms must begin sampling and testing their untreated water sources in accordance with § 112.46(b)(1), as applicable, by their compliance date. If the compliance date is not an appropriate time to engage in the relevant sampling and testing activities—for example, because of the requirement in § 112.46(b)(1)(ii) that samples be representative of your use of the water—then compliance must begin by the first relevant time period that occurs after the compliance date.

To elaborate on what this would mean in practical terms, for a farm that is not small or very small, compliance must begin by the first relevant time period that occurs on or after January 26, 2022.

² We arrive at this estimate by taking the decrease in the annualized benefits between the original produce safety rule and the rule with this extension (about \$104 million and \$96 million at 3 percent and 7 percent, respectively, over 10 years) and dividing it by the average cost per foodborne illness associated with covered produce other than sprouts. We estimate that approximately 30,103 and 32,554 illnesses annualized at 3 percent and 7 percent, respectively, that we estimate would not be prevented during the specified 10-year time horizon.

For example, if a farm that is not small or very small only uses an untreated water source for agricultural water in May, a compliance date of January 26, 2022, would indicate that sample collection under § 112.46(b)(1) must take place in May 2022, as that is the time in which water samples collected would be representative of their use of the water. Farms that wish to develop or begin developing their MWQP prior to their compliance date are welcome to do so; but in the above example, FDA would not expect sample collection to have begun prior to May 2022.

To provide a few examples related to the number and timing of samples, all of the following possible approaches are acceptable for farms that are not small or very small:

- Beginning in 2022, conducting an initial survey of an untreated surface water source by taking 10 samples per year over 2 years (10 in 2022 and 10 in 2023) for a total of 20 samples in accordance with § 112.46(b)(1)(i)(A); calculating the MWQP for the first time upon completing the 20-sample data set in 2023; and applying any necessary corrective actions under § 112.45(b) as soon as practicable and no later than the following year (e.g., during the 2024 growing season).

- Beginning in 2022, conducting an initial survey of an untreated surface water source by taking 5 samples per year over 4 years (5 in 2022, 5 in 2023, 5 in 2024, and 5 in 2025) for a total of 20 samples, in accordance with § 112.46(b)(1)(i)(A); calculating the MWQP for the first time upon completing the 20-sample data set in 2025; and applying any necessary corrective actions under § 112.45(b) as soon as practicable and no later than the following year (e.g., during the 2026 growing season).

- Beginning in 2022, conducting an initial survey of an untreated ground water source by taking 4 samples during the 2022 growing season in accordance with § 112.46(b)(1)(i)(B); calculating the MWQP for the first time upon completing the 4-sample data set at the end of the 2022 growing season; and applying any necessary corrective actions under § 112.45(b) as soon as practicable and no later than the following year (e.g., during the 2023 growing season).

(Comment 7) Some comments requested additional outreach and education as FDA explores modifications to the agricultural water testing provisions.

(Response 7) FDA intends to continue to work with an array of stakeholders to explore and address the concerns around subpart E. As described above,

we will be implementing a rigorous stakeholder engagement plan over the course of several months. If we determine that changes to subpart E are necessary, that would require notice and comment rulemaking and thus the public would have an opportunity to comment on any proposed changes. If we determine that we can address concerns through guidance, such a guidance would be considered “Level 1” and would be subject to the notice and comment procedures outlined in § 10.115(g), which is part of FDA’s Good Guidance Practices regulations. We also remain committed to working with covered farms to prepare for compliance, through outreach, training and education, and other collaboration.

(Comment 8) Some comments stated the proposed extension is contrary to Congress’ intent and the plain language of FSMA, noting that the statute included a deadline for the produce safety final rule.

(Response 8) We do not agree that delaying the compliance date for subpart E is contrary to Congress’s intent or the plain language of the statute. FSMA required FDA to establish science- and risk-based minimum standards for the safe production and harvesting of produce for human consumption (see section 419(a)(1)(A) of the FD&C Act (21 U.S.C. 350h(a)(1)(A))), which we have done by promulgating the produce safety regulation. Extending the compliance dates for subpart E (for covered produce other than sprouts) will allow us to evaluate how we can either improve the requirements or implement them in a way that is less confusing and more workable for covered farms, in light of the feedback we have received about subpart E, while still protecting the public health.

Although FSMA includes deadlines for issuing the proposed and final rules, there is nothing in the language or spirit of the statute that is contrary to FDA doing its due diligence to examine how we can achieve the public health regulatory objectives contained in the rule in a way that is more practical for covered farms. We reiterate that we are not changing the compliance dates for the entire produce safety regulation, just subpart E for covered produce other than sprouts.

(Comment 9) Comments stated that FDA should clearly communicate its expectations of agricultural water users during the extension.

(Response 9) With this final rule, we are extending the compliance dates for subpart E of the produce safety regulation for covered produce other than sprouts. FDA will therefore not expect growers of covered produce

(other than sprouts) to implement subpart E until the new compliance dates. In the meantime, farms should focus their attention on good agricultural practices to maintain and protect the quality of their water sources. (See, e.g., FDA’s “Guide to Minimize Microbial Food Safety Hazards for Fresh Fruits and Vegetables,” at <https://www.fda.gov/Food/GuidanceRegulation/GuidanceDocuments/RegulatoryInformation/ucm064574.htm>). Farms currently testing their water may choose to continue with their current water testing programs, and farms that are not currently testing their water may choose to begin doing so.

IV. Economic Analysis of Impacts

We have examined the impacts of this rule under Executive Order 12866, Executive Order 13563, Executive Order 13771, the Regulatory Flexibility Act (5 U.S.C. 601612), and the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). Executive Orders 12866 and 13563 direct us to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). Executive Order 13771 requires that the costs associated with significant new regulations “shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least two prior regulations.” We believe that this final rule is an economically significant regulatory action as defined by Executive Order 12866.

The Regulatory Flexibility Act requires Agencies to analyze regulatory options that will minimize any significant impact of a rule on small entities. Because this final rule only extends the compliance dates for certain provisions of the produce safety regulation, we certify that this final rule will not have a significant economic impact on a substantial number of small entities.

The Unfunded Mandates Reform Act of 1995 (section 202(a)) requires us to prepare a written statement, which includes an assessment of anticipated costs and benefits, before proposing “any rule that includes any Federal mandate that may result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of \$100,000,000 or more (adjusted annually for inflation) in any one year.” The current threshold after

adjustment for inflation is \$150 million, using the most current (2017) Implicit Price Deflator for the Gross Domestic Product. This final rule will not result in an expenditure in any year that meets or exceeds this amount.

This rule extends, for non-sprout covered produce, the compliance date for all of the provisions of subpart E to 4 years after the relevant farm's compliance date for all other provisions of the produce safety regulation (which varies based on establishment size). The estimated costs and benefits accrued in any given year of compliance with the produce safety regulation, relative to the first year of compliance, do not change. However, because the compliance dates for certain provisions are extended, the discounted value of both total costs and total benefits decrease.

In the final regulatory impact analysis of subpart E of the produce safety regulation, we only considered §§ 112.42, 112.44, 112.45(a)(2), 112.45(b)(3), 112.46(b), and 112.46(c) to result in a cost. Therefore, while subpart E has other provisions, only the

aforementioned provisions are relevant to and addressed in this cost and benefit analysis.

There is a reduction in costs (*i.e.*, cost savings) associated with extending, for non-sprout covered produce, the compliance date for all of the provisions of subpart E to 4 years after the relevant farm's compliance date for the rest of the produce safety regulation. With respect to their non-sprout covered produce, covered farms have 4 years from the compliance date for the other provisions of produce safety regulation to comply with the provisions in subpart E. Thus, while all initial startup costs and recurring costs remain the same as estimated in the final regulatory impact analysis for the produce safety regulation (Ref. 1), the annualized total costs, discounted at 3 (7) percent over 10 years, decrease from \$291 (\$265) million to \$280 (\$254) million, resulting in a savings of \$12 (\$10) million.³ The present value of total costs, discounted at 3 (7) percent over 10 years, decreases from about \$2.5 (\$1.9) billion to about \$2.4 (\$1.8) billion, resulting in a savings

of about \$99 (\$74) million. No additional costs would be incurred by state, local, and tribal governments or the private sector as a result of this rule.

There is a reduction in benefits associated with extending the compliance dates as described previously. Consumers eating non-sprout covered produce will not enjoy the potential health benefits (*i.e.*, reduced risk of illness) provided by the provisions of subpart E until 2 to 4 years (depending on the specific provision) later than originally established in the produce safety regulation. Thus, the annualized total benefits to consumers, discounted at 3 (7) percent over 10 years, decrease by \$104 (\$96) million from \$800 (\$740) million to \$696 (\$644) million. The present value of total benefits, discounted at 3 (7) percent over 10 years, decreases from about \$6.8 (\$5.2) billion to about \$5.9 (\$4.5) billion. Estimated changes in benefits and costs as a result of this extension are summarized in the following table.

TABLE 5—SUMMARY OF CHANGES TO BENEFITS AND COSTS AS A RESULT OF THE FINAL RULE

Category	Primary estimate	Units		
		Year dollars	Discount rate (%)	Period covered
Forgone Benefits:				
Annualized	\$96	2017	7	2016–2025
Monetized \$millions/year	104	2017	3	2016–2025
Forgone Costs:				
Annualized	10	2017	7	2016–2025
Monetized \$millions/year	12	2017	3	2016–2025

In line with Executive Order 13771, in table 6 we estimate present and annualized values of costs and cost

savings over an infinite time horizon. Based on these cost-savings, this final

rule will be considered a deregulatory action under Executive Order 13771.

TABLE 6—EXECUTIVE ORDER 13771 SUMMARY TABLE (IN \$ MILLIONS 2016 DOLLARS, OVER AN INFINITE TIME HORIZON)

Item	Primary estimate (7%)	Primary estimate (3%)
Present Value of Cost Savings	\$72	\$97
Annualized Cost Savings	5	3

We have developed a comprehensive Economic Analysis of Impacts that assesses the impacts of the final rule. The full analysis of economic impacts is available in the docket for this rule (Ref. 2) at <https://www.regulations.gov>, and at <https://www.fda.gov/AboutFDA/ReportsManualsForms/Reports/EconomicAnalyses/default.htm>.

V. Analysis of Environmental Impact

We have determined under 21 CFR 25.30(j) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

VI. Paperwork Reduction Act of 1995

This rule contains no collection of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

³ The \$12 million and \$10 million figures are rounded. The costs decrease from \$291.5 (\$264.8)

million to \$279.8 (\$254.3) million, resulting in a savings of \$11.6 (\$10.5) million.

VII. Federalism

We have analyzed this rule in accordance with the principles set forth in Executive Order 13132. FDA has determined that the rule does not contain policies that 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. Accordingly, we conclude that the rule does not contain policies that have federalism implications as defined in the Executive order and, consequently, a federalism summary impact statement is not required.

VIII. Consultation and Coordination With Indian Tribal Governments

We have analyzed this rule in accordance with the principles set forth in Executive Order 13175. We have determined that the rule does not contain policies 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. Accordingly, we conclude that the rule does not contain policies that have tribal implications as defined in the Executive order and, consequently, a tribal summary impact statement is not required.

IX. References

The following references are on display in the Dockets Management Staff (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852 and are available for viewing by interested persons between 9 a.m. and 4 p.m., Monday through Friday; they are also available electronically at <https://www.regulations.gov>. FDA has verified the website addresses, as of the date this document publishes in the **Federal Register**, but websites are subject to change over time.

1. FDA, "Final Regulatory Impact Analysis, Standards for the Growing, Harvesting, Packing and Holding of Produce for Human Consumption." November 2015. Available at: <https://www.fda.gov/AboutFDA/ReportsManualsForms/Reports/EconomicAnalyses/ucm472310.htm>.

2. FDA, "Final Regulatory Impact Analysis, Final Regulatory Flexibility Analysis, and Unfunded Mandates Reform Act Analysis for the Standards for the Growing, Harvesting, Packing, and Holding of Produce for Human

Consumption; Extension of Compliance Dates for Subpart E; Final Rule," 2019. Available at: <https://www.fda.gov/AboutFDA/ReportsManualsForms/Reports/EconomicAnalyses/>.

Dated: March 6, 2019.

Scott Gottlieb,

Commissioner of Food and Drugs.

[FR Doc. 2019-04652 Filed 3-15-19; 8:45 am]

BILLING CODE 4164-01-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2019-0156]

RIN 1625-AA87

Security Zones; Corpus Christi Ship Channel, Corpus Christi, TX

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard establishes two security zones. One of the zones is a temporary fixed security zone for the receiving facility's mooring basin while the Liquefied Natural Gas Carrier (LNGC) MARVEL FALCON is moored at the facility. The other zone is a moving security zone encompassing all navigable waters within a 500-yard radius around the LNGC MARVEL FALCON while the vessel transits with cargo in the La Quinta Channel and Corpus Christi Ship Channel in Corpus Christi, TX. The security zones are needed to protect personnel, vessels, and the marine environment from potential hazards created by Liquefied Natural Gas (LNG) cargo aboard the vessel. Entry of vessels and persons into these zones is prohibited unless specifically authorized by the Captain of the Port Sector Corpus Christi.

DATES: This rule is effective without actual notice from 12 a.m. through 11:59 p.m. on March 18, 2019. For the purposes of enforcement, actual notice will be used from March 11, 2019 until March 18, 2019.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG-2019-0156 in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Petty Officer Kevin Kyles, Sector Corpus Christi Waterways Management

Division, U.S. Coast Guard; telephone 361-939-5125, email Kevin.L.Kyles@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port Sector Corpus Christi
DHS Department of Homeland Security
FR Federal Register
LNGC Liquefied Natural Gas Carrier
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(3)(B), the Coast Guard finds that good cause exists for not publishing an NPRM with respect to this rule because it is impracticable. We must establish these security zones by March 11, 2019 and lack sufficient time to provide a reasonable comment period and then consider those comments before issuing the rule.

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

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034. The COTP has determined that potential hazards associated with LNGC MARVEL FALCON between March 11, 2019 and March 18, 2019 will be a security concern while the vessel is moored at the receiving facility and within a 500-yard radius of the vessel while the vessel transits with cargo.

IV. Discussion of the Rule

This rule establishes two security zones around LNGC MARVEL FALCON from March 11, 2019 through March 18, 2019. A fixed security zone will be in effect in the mooring basin bound by 27°52'53.38" N, 097°16'20.66" W on the northern shoreline; thence to

27°52'45.58" N, 097°16'19.60" W; thence to 27°52'38.55" N, 097°15'45.56" W; thence to 27°52'49.30" N, 097°15'45.44" W; thence west along the shoreline to 27°52'53.38" N, 097°16'20.66" W, while LNGC MARVEL FALCON is moored. A moving security zone will cover all navigable waters within a 500-yard radius of the LNGC MARVEL FALCON while the vessel transits outbound with cargo through the La Quinta Channel and Corpus Christi Ship Channel. No vessel or person will be permitted to enter the security zones without obtaining permission from the COTP or a designated representative.

Entry into these security zones is prohibited unless authorized by the COTP or a designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to units under the operational control of USCG Sector Corpus Christi. Persons and vessels desiring to enter or pass through the zones must request permission from the COTP or a designated representative on VHF-FM channel 16 or by telephone at 361-939-0450. If permission is granted, all persons and vessels shall comply with the instructions of the COTP or designated representative. The COTP or a designated representative will inform the public through Broadcast Notices to Mariners (BNMs) of the enforcement times and dates for these security zones.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This rule has not been designated a "significant regulatory action," under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the size, duration, and location of the security zone. This rule will impact a small designated area of

the Corpus Christi Ship Channel and La Quinta Channel, where the vessel traffic is usually low, for only 8 days, while the vessel is moored at the receiving facility and during the vessel's transit while loaded with cargo. Moreover, the Coast Guard will issue BNMs via VHF-FM marine channel 16 about the zones and the rule allows vessels to seek permission to enter the zones.

B. Impact on Small Entities

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

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

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

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

C. Collection of Information

This rule will not call for a new collection of information under the

Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a temporary fixed security zone while LNGC MARVEL FALCON is moored at the receiving facility mooring basin bound by 27°52'53.38" N, 097°16'20.66" W on the northern shoreline; thence to 27°52" N, 097°16'19.60" W; thence to

27°52'38.55" N, 097°15'45.56" W; thence to 27°52'49.30" N, 097°15'45.44" W; thence west along the shoreline to 27°52'53.38" N, 097°16'20.66" W, and a temporary moving security zone while the vessel transits with cargo within the La Quinta Channel and Corpus Christi Ship Channel, that will prohibit entry within 500-yard radius of LNGC MARVEL FALCON. These zones are categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023-01-001-01, Rev. 01. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 46 U.S.C. 70034; 46 U.S.C. 70051; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T08-0156 to read as follows:

§ 165.T08-0156 Security Zones; Corpus Christi Ship Channel, Corpus Christi, TX.

(a) *Location*. The following areas are security zones:

(1) The mooring basin bound by 27°52'53.38" N, 097°16'20.66" W on the northern shoreline; thence to 27°52'45.58" N, 097°16'19.60" W; thence to 27°52'38.55" N, 097°15'45.56" W; thence to 27°52'49.30" N, 097°15'45.44" W; thence west along the shoreline to 27°52'53.38" N, 097°16'20.66" W, while Liquefied Natural Gas Carrier (LNGC) MARVEL FALCON is moored.

(2) All navigable waters encompassing a 500-yard radius around the LNGC MARVEL FALCON while transiting outbound with cargo through the La

Quinta Channel and Corpus Christi Ship Channel.

(b) *Effective period*. This section is effective without actual notice from 12 a.m. through 11:59 p.m. on March 18, 2019. For the purposes of enforcement, actual notice will be used from March 11, 2019 until March 18, 2019.

(c) *Period of enforcement*. This section will be enforced from the time LNGC MARVEL FALCON moors and while the vessel is transiting outbound through the La Quinta Channel and Corpus Christi Ship Channel from March 11, 2019 through March 18, 2019.

(d) *Regulations*. (1) The general regulations in § 165.33 apply. Entry into these temporary security zones is prohibited unless authorized by the Captain of the Port Sector Corpus Christi (COTP) or a designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to units under the operational control of USCG Sector Corpus Christi.

(2) Persons and vessels desiring to enter or pass through the zones must request permission from the COTP or a designated representative on VHF-FM channel 16 or by telephone at 361-939-0450.

(3) If permission is granted, all persons and vessels shall comply with the instructions of the COTP or designated representative.

(e) *Information broadcasts*. The COTP or a designated representative will inform the public through Broadcast Notices to Mariners (BNMs) of the enforcement times and date for these security zones.

Dated: March 12, 2019.

E.J. Gaynor,

Captain, U.S. Coast Guard, Captain of the Port Sector Corpus Christi.

[FR Doc. 2019-04966 Filed 3-15-19; 8:45 am]

BILLING CODE 9110-04-P

POSTAL SERVICE

39 CFR Part 111

New Mailing Standards for Mailpieces Containing Liquids

AGENCY: Postal Service™.

ACTION: Final rule.

SUMMARY: The Postal Service is revising *Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM®), section 601.3.4 to clarify and supplement the mailing standards for mailpieces containing liquids.

DATES: Effective March 28, 2019.

FOR FURTHER INFORMATION CONTACT: Mary Collins at (202) 268-5551 or Wm. Kevin Gunther at (202) 268-7208.

SUPPLEMENTARY INFORMATION:

Background

The Postal Service published a notice of proposed rulemaking on July 9, 2018, (83 FR 31712-31713) requesting public feedback on potential changes to DMM 601.3.4. The original proposed rule provided for a 30-day comment period. At the request of the mailing industry, the comment period was subsequently extended to September 30, 2018. During the comment period, the Postal Service received twenty formal comments, and engaged in a number of discussions with mailers and with various members of the mailing and hazardous materials transportation industries.

The July 9, 2018 proposed rule consisted of two components. The first component was the clarification of existing language that specified packaging and markings for mailpieces containing liquids. The second component was a proposal to extend the requirement to triple-package breakable primary containers with a volume of four (4) ounces or less. Current mailing standards require triple packaging only for breakable primary containers over 4 ounces.

The Postal Service will move forward with the proposed clarification language and incorporate some additional changes that were proposed by mailers during the comment period. The Postal Service has observed that a significant percentage of liquid spills results from mailers misinterpreting the existing packaging requirements for liquids, thinking their nonmetal containers are not breakable. However, nonmetal containers (*i.e.*, plastic, glass, earthenware, etc.) are often the source of liquid spills in Postal Service networks.

Specifically, the Postal Service will remove the ambiguity surrounding the meaning of "breakable container," in addition to clarifying the packaging requirements for those containers. The Postal Service expects this revision to reduce confusion, improve compliance, and limit the frequency with which it has to take action with noncompliant mailers. For convenience and simplicity, the Postal Service will also consolidate existing requirements for the packaging of liquids from Publication 52, *Hazardous, Restricted and Perishable Mail*, into the revised DMM 601.3.4, adding reference to package orientation markings as a condition for the mailing of liquids or other spillable materials. The Postal Service believes this clarification to be

necessary prior to considering an escalation of enforcement.

With regard to extending the requirement to triple-package breakable primary containers with a volume of 4 ounces or less, the Postal Service will not move forward with this proposal at this time. The Postal Service will continue to monitor the frequency and impact of spills originating for these smaller containers, and make a determination at a future date regarding mailing standards revisions relating to smaller containers of liquids. The Postal Service encourages mailers to review and, if justified, make improvements to their packaging processes for small containers, especially for those liquids that can be disruptive to Postal Service operations (e.g., corrosive, viscous or oily liquids, and those with strong odors).

Summary of Comments and Postal Service Responses

The Postal Service received 20 responses to the July 9, 2018 proposed rule, several of which included multiple comments. Commenters included trade groups representing shippers of hazardous materials, individual mailers, mailer organizations, pharmaceutical mailers, and technical/professional service providers. Comments and Postal Service responses are summarized as follows:

Comment: Three commenters expressed concern with the impact the proposed revision could have on liquid product samples placed into Periodicals, and other flat-size or letter-size mailpieces.

USPS Response: It was not the intent of the Postal Service to expand the applicability of the revised DMM 601.3.4 to packets of liquid product samples placed in letter-size and flat-size mailpieces. Mailing standards relating to samples in Periodical mailpieces are provided in DMM 207.3.3.9. Additional details are described in Customer Support Ruling (CSR) PS-273. The mailing of packets of liquid product samples in other letter-size and flat-size mailpieces is described in a Postal Service policy, administered primarily through the Pricing and Classification Service Center (PCSC). The Postal Service does not intend to make changes to these mailing standards or policy at this time.

Comment: Several commenters opined that the revised standards would tend to make the Postal Service less competitive, add cost to mailers, and could drive liquid mailers to other transportation providers.

USPS Response: The Postal Service is committed to the safety and security of

all items in its networks and strives to create mailing standards that support these efforts, yet are not overly burdensome to the mailing industry. The Postal Service will continue to work with industry to find ways to minimize incidents and the hidden costs resulting from clean-up expenses, lost work-hours and indemnity claims associated with spills of liquids in Postal Service networks.

Comment: Several commenters requested that the Postal Service reconsider its proposal to extend the triple-packaging requirement to primary containers of 4 ounces or less, with one commenter suggesting that the 4 ounce threshold be raised. These commenters relate that the additional expense associated with compliance would increase mailer costs.

USPS Response: In response to these requests, the Postal Service will not move forward with this proposal. Instead, the Postal Service will monitor the frequency and impact of spills originating from these smaller containers, and make a determination at a future date regarding mailing standards revisions. The Postal Service plans to consult with the shipping industry periodically on this topic and prior to proposing additional restrictions on smaller containers, if such a change appears necessary. In the meantime, the Postal Service requests that mailers review and, if warranted, make improvements to their packaging processes for small containers, especially for those liquids that can be disruptive to Postal Service operations (e.g., viscous or oily liquids and those with strong odors).

Comment: One commenter generally agreed with the change, but suggested restricting its application to commercial mailers only, while another commenter speculated that most spill incidents are not attributable to commercial mailers.

USPS Response: There is no evidence to support the claim that e-Retailers are better or worse at packaging liquids than the general public. The proposed changes are intended to reflect industry best practices that can be applied uniformly.

Comment: Several commenters urged the Postal Service to improve its enforcement regarding mailers found to be using insufficient packaging for liquids, instead of implementing new requirements. One commenter specifically suggested that the USPS Mailpiece Incident Reporting Tool (MIRT) be employed for this purpose. Additional suggestions ranged from mandating new mailer-provided insurance coverage that would compensate for damages to equipment

and affected mailpieces to the introduction of fines that would cover the cost of any damages caused by mailpieces that are not prepared in accordance with mailing standards.

USPS Response: The MIRT currently has the capacity to capture details of, and generate reports for, nonhazardous liquids incidents. The Postal Service will continue its efforts to improve MIRT compliance going forward, and will attempt to provide more consistent and timely feedback to noncompliant mailers.

In an additional effort to improve compliance, the Postal Service will move forward with some of its proposed revisions to DMM 601.3.4 and Publication 52, *Hazardous, Restricted and Perishable Mail*, section 451.3, specifically to remove the ambiguity surrounding the meaning of the term “breakable container” and clarifying the packaging requirements for those containers. The Postal Service believes a significant percentage of liquid spill incidents arise from mailers misinterpreting the existing packaging requirements for liquids, thinking their nonmetal containers are not breakable. As a result, the Postal Service expects these revisions to improve compliance, and limit the frequency with which it has to take action with noncompliant mailers. It is also expected that these revisions are an appropriate first step in the Postal Service’s improved enforcement process and the Postal Service will continue to work with the mailing industry to explore other options.

Comment: One commenter suggested the Postal Service place additional restrictions on problematic liquids.

USPS Response: The Postal Service currently has separate and distinct mailing standards for hazardous and nonhazardous liquids. At this time, the Postal Service prefers not to add another set of standards for nonhazardous liquids with specific characteristics. The Postal Service will consider this approach at a later date if conditions demonstrate the need.

Comment: One commenter related their belief that requiring triple packaging of nonmetal containers will add considerable packaging costs by adding additional weight and bulk to shipments, and may push mailings into higher rate cells, affecting a mailer’s ability to combine liquids and non-liquids in the same shipment.

USPS Response: The Postal Service is sensitive to mailer concerns about escalating cost. However, it is the position of the Postal Service that the proposed revisions relating to breakable containers and the requirement to triple

package are nothing more than clarification of existing standards. The Postal Service believes mailers should have always been triple packaging nonmetal containers, such as plastic bottles of motor oil, laundry detergent, and similar materials. As discussed previously in this **Federal Register** notice, the Postal Service believes it imperative to address the issue of spills, along with their associated hidden costs.

Comment: One commenter suggested that the Postal Service benchmark with other carriers to discover their strategies for managing and mitigating liquids incidents.

USPS Response: The Postal Service recognizes that there are operational differences between itself and commercial carriers and that it has legal constraints unique to its role as a governmental entity. However, the Postal Service plans to discuss liquid spill mitigation strategies with commercial carriers as opportunities arise.

Comment: One commenter requested that the Postal Service revise the language in the current DMM 601.3.4(d) to remove the requirement for mailers to provide their International Safe Transit Association (ISTA) 3A Package-Product Certification Notice at the time of mailing, and to replace it with language stating that mailers only need to be capable of meeting the conditions of the ISTA 3A procedure test.

USPS Response: The Postal Service believes it important for mailers, when choosing to use an alternate process to triple packaging, to provide certification that their packaging meets all the applicable test criteria. Therefore, the Postal Service will retain the requirement that mailers perform the ISTA 3A test on each combination of internal and external packaging for liquids, and make available the applicable 3A Package-Product Certification Notice for Postal Service review upon request. Upon the effective date of this notice, the Postal Service will no longer require mailers to provide these certifications at the time of each mailing, unless specifically requested by the office of acceptance.

Comment: One commenter requested that the Postal Service allow tests, other than ISTA 3A, as an alternate process to triple packaging.

USPS Response: In discussions with mailing and hazardous materials transportation industries regarding these proposed revisions, the Postal Service requested that mailers provide details about industry best practices used to ensure packaging is sufficiently rigorous to mitigate the risk of liquid spills in

Postal Service networks. The Postal Service received one response from a pharmaceuticals mailer that referenced the Food and Drug Administration Current Good Manufacturing Practices (CGMP) process as an alternate process to triple packaging. The Postal Service reviewed the procedures and practices specified by the CGMP, but was unable to find guidelines relating to shipping or mailing of products and materials. As a result, the Postal Service will not add CGMP as an alternative to triple packaging for liquids in primary containers over 4 ounces. This commenter is encouraged to contact Postal Service Product Classification if they wish to provide additional input regarding CGMP.

Comment: One commenter requested that the Postal Service reconsider the requirement to provide enough absorbent material to absorb all the liquid contained in the primary container(s). The commenter stated that the requirement is expensive, difficult to quantify, and is more restrictive than that of commercial carriers.

USPS Response: The requirement to cushion the primary container with material sufficient to absorb all leakage has been in place for several years. Because of the elevated frequency with which liquid spills are now occurring, the Postal Service does not intend to relax this requirement at this time. Mailers that find it cost prohibitive to include absorbent materials as the cushioning material inside packages are encouraged to use the package testing alternatives found in the DMM section 601.3.4d.

Comment: One commenter requests that the Postal Service provide a minimum of one year for mandatory compliance.

USPS Response: As stated previously in this **Federal Register** notice, the Postal Service does not intend to move forward with its proposal to require triple packaging for containers of 4 ounces or less. In addition, the requirement to triple package breakable containers is not new, and has been in effect for many years. Since the DMM revisions discussed in this **Federal Register** notice do not constitute new requirements, the Postal Service does not believe it necessary to provide for a transitional period. Although these changes are effective March 28, 2019, the revisions will be published in the DMM on June 23, 2019.

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

The Postal Service adopts the following changes to *Mailing Standards*

of the United States Postal Service, Domestic Mail Manual (DMM), incorporated by reference in the *Code of Federal Regulations*. See 39 CFR 111.1.

Accordingly, 39 CFR part 111 is amended as follows:

PART 111—[AMENDED]

■ 1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 13 U.S.C. 301–307; 18 U.S.C. 1692–1737; 39 U.S.C. 101, 401, 403, 404, 414, 416, 3001–3011, 3201–3219, 3403–3406, 3621, 3622, 3626, 3632, 3633, and 5001.

■ 2. Revise the *Mailing Standards of the United States Postal Service, Domestic Mail Manual (DMM)* as follows:

Mailing Standards of the United States Postal Service, Domestic Mail Manual (DMM)

* * * * *

600 Basic Standards for All Mailing Services

601 Mailability

* * * * *

3.0 Packaging

* * * * *

3.4 Liquids

[Revise 3.4 as follows:]

Mailers must mark the outer container of a mailpiece containing liquid to indicate the nature of the contents (*i.e.*, liquid), and include orientation arrows in accordance with Publication 52, section 226. Mailers must package and mail liquids under the following conditions:

a. Use screw-on caps with a minimum of one and one-half turns, soldering, clips, or similar means to close primary containers containing liquids. Do not use containers with friction-top closures (push-down tops) except as provided in 3.4c. The use of locking rings or similar devices are encouraged when mailing containers with friction-top closures (push-down tops).

b. Liquids in steel pails and drums with positive closures, such as locking rings or recessed spouts under screw-cap closures, may be mailed without additional packaging.

c. Breakable containers including, but not limited to, those made of glass, plastic, porcelain, and earthenware, and metal containers with pull-tabs (pop-tops) or friction-top closures, having a capacity of more than 4 fluid ounces must be triple-packaged according to the following requirements:

1. Cushion the primary container(s) with absorbent material capable of

absorbing all of the liquid in the container(s) in case of breakage;

2. Place the primary container inside another sealed, leakproof container (secondary container), such as a watertight can or plastic bag; and

3. Use a strong and securely sealed outer mailing container durable enough to protect the contents and withstand normal processing in Postal Service networks.

d. As an alternative to 3.4c above, mailers may use containers certified under the International Safe Transit Association (ISTA) Test Procedure 3A. Mailers must, upon request, provide written test results verifying that sample mailpieces passed each test outlined in the standard and that no liquids were released.

* * * * *

We will publish an appropriate amendment to 39 CFR part 111 to reflect these changes.

Brittany M. Johnson,

Attorney, Federal Compliance.

[FR Doc. 2019-04894 Filed 3-15-19; 8:45 am]

BILLING CODE 7710-12-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 180117042-8884-02]

RIN 0648-XG895

Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fisheries

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

ACTION: Temporary rule.

SUMMARY: NMFS closes the southern area Angling category fishery for large medium and giant (“trophy” (*i.e.*, measuring 73 inches curved fork length or greater)) Atlantic bluefin tuna (BFT). This action is being taken to prevent overharvest of the Angling category southern area trophy BFT subquota.

DATES: Effective 11:30 p.m., local time, March 14, 2019, through December 31, 2019.

FOR FURTHER INFORMATION CONTACT: Sarah McLaughlin, 978-281-9260, Larry Redd, 301-420-8503, or Uriah Forest-Bulley, 978-675-2154.

SUPPLEMENTARY INFORMATION: Regulations implemented under the authority of the Atlantic Tunas Convention Act (ATCA; 16 U.S.C. 971 *et*

seq.) and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. 1801 *et seq.*) governing the harvest of BFT by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 635. Section 635.27 subdivides the U.S. BFT quota recommended by the International Commission for the Conservation of Atlantic Tunas (ICCAT) among the various domestic fishing categories, per the allocations established in the 2006 Consolidated Atlantic Highly Migratory Species Fishery Management Plan (2006 Consolidated HMS FMP) (71 FR 58058, October 2, 2006) and amendments.

NMFS is required, under § 635.28(a)(1), to file a closure notice with the Office of the Federal Register for publication when a BFT quota is reached or is projected to be reached. On and after the effective date and time of such notification, for the remainder of the fishing year or for a specified period as indicated in the notification, retaining, possessing, or landing BFT under that quota category is prohibited until the opening of the subsequent quota period or until such date as specified in the notice.

Angling Category Large Medium and Giant Southern “Trophy” Fishery Closure

The 2019 BFT fishing year, which is managed on a calendar-year basis and subject to an annual calendar-year quota, began January 1, 2019. The Angling category season opened January 1, 2019, and continues through December 31, 2019. The currently codified Angling category quota is 232.4 metric tons (mt), of which 5.3 mt is allocated for the harvest of large medium and giant (trophy) BFT by vessels fishing under the Angling category quota, with 1.8 mt allocated for each of the following areas: North of 39°18' N lat. (off Great Egg Inlet, NJ); south of 39°18' N lat. and outside the Gulf of Mexico (the “southern area”); and in the Gulf of Mexico. Trophy BFT measure 73 inches (185 cm) curved fork length or greater.

Based on reported landings from the NMFS Automated Catch Reporting System and the North Carolina Tagging Program, NMFS has determined that the codified Angling category southern area trophy BFT subquota of 1.8 mt has been reached and that a closure of the southern area trophy BFT fishery is warranted. Therefore, retaining, possessing, or landing large medium or giant BFT south of 39°18' N lat. and outside the Gulf of Mexico by persons aboard vessels permitted in the HMS Angling category and the HMS Charter/

Headboat category (when fishing recreationally) must cease at 11:30 p.m. local time on March 14, 2019. This closure will remain effective through December 31, 2019. This action is intended to prevent overharvest of the Angling category southern area trophy BFT subquota, and is taken consistent with the regulations at § 635.28(a)(1).

If needed, subsequent Angling category adjustments will be published in the **Federal Register**. Information regarding the Angling category fishery for Atlantic tunas, including daily retention limits for BFT measuring 27 inches (68.5 cm) to less than 73 inches and any further Angling category adjustments, is available at hmspermits.noaa.gov or by calling (978) 281-9260. HMS Angling and HMS Charter/Headboat category permit holders may catch and release (or tag and release) BFT of all sizes, subject to the requirements of the catch-and-release and tag-and-release programs at § 635.26. Anglers are also reminded that all BFT that are released must be handled in a manner that will maximize survival, and without removing the fish from the water, consistent with requirements at § 635.21(a)(1). For additional information on safe handling, see the “Careful Catch and Release” brochure available at <https://www.fisheries.noaa.gov/resource/outreach-and-education/careful-catch-and-release-brochure>.

HMS Charter/Headboat and Angling category vessel owners are required to report the catch of all BFT retained or discarded dead, within 24 hours of the landing(s) or end of each trip, by accessing hmspermits.noaa.gov, using the HMS Catch Reporting app, or calling (888) 872-8862 (Monday through Friday from 8 a.m. until 4:30 p.m.).

Classification

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

The regulations implementing the 2006 Consolidated HMS FMP and amendments provide for inseason retention limit adjustments and fishery closures to respond to the unpredictable nature of BFT availability on the fishing grounds, the migratory nature of this species, and the regional variations in the BFT fishery. The closure of the southern area Angling category trophy fishery is necessary to prevent any further overharvest of the southern area trophy fishery subquota. NMFS provides notification of closures by publishing the notice in the **Federal**

Register, emailing individuals who have subscribed to the Atlantic HMS News electronic newsletter, and updating the information posted on the Atlantic Tunas Information Line and on *hmspermits.noaa.gov*.

These fisheries are currently underway and delaying this action would be contrary to the public interest as it could result in excessive trophy BFT landings that may result in future potential quota reductions for the

Angling category, depending on the magnitude of a potential Angling category overharvest. NMFS must close the southern area trophy BFT fishery before additional landings of these sizes of BFT occur. Therefore, the AA finds good cause under 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment. For all of the above reasons, there is good cause under 5 U.S.C. 553(d) to waive the 30-day delay in effectiveness.

This action is being taken under 50 CFR 635.28(a)(1), and is exempt from review under Executive Order 12866.

Authority: 6 U.S.C. 971 *et seq.* and 1801 *et seq.*

Dated: March 12, 2019.

Karen H. Abrams,

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

[FR Doc. 2019-04986 Filed 3-13-19; 4:15 pm]

BILLING CODE 3510-22-P

Proposed Rules

Federal Register

Vol. 84, No. 52

Monday, March 18, 2019

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 ENERGY

10 CFR Parts 430 and 431

[EERE-2018-BT-TP-0020]

Energy Conservation Program: Notice of Request for Information on the Measurement of Average Use Cycles or Periods of Use in DOE Test Procedures

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Request for information (RFI).

SUMMARY: The U.S. Department of Energy (DOE) is initiating a data and information collection process through this request for information to better understand whether there are provisions in the Department's test procedures for consumer appliances and industrial equipment that could be improved to produce results that are more representative of average use cycles or periods of use. Over time, many of DOE's test procedures have been amended to account for products' increased functionality and modes of operation. DOE's intent in issuing this RFI is to gather information to ensure that the inclusion of measurement provisions in its test procedures associated with such increased functionality has not inadvertently compromised the measurement of representative average use cycles or periods of use, and made some test procedures unnecessarily burdensome. DOE welcomes written comments from the public on any subject within the scope of this document, including topics not directly outlined in this RFI. DOE particularly welcomes comments on any suggestions for reducing or avoiding regulatory burdens within the context of measuring average use cycles or periods of use.

DATES: Written comments and information are requested and will be accepted on or before May 17, 2019.

ADDRESSES: Interested persons are encouraged to submit comments using

the Federal eRulemaking Portal at <http://www.regulations.gov>. Follow the instructions for submitting comments. Alternatively, interested persons may submit comments, identified by docket number EERE-2018-BT-TP-0020, by any of the following methods:

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

2. *Email:* to UseCycleRFI2018TP0020@ee.doe.gov. Include docket number EERE-2018-BT-TP-0020 in the subject line of the message.

3. *Postal Mail:* Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, Mailstop EE-5B, 1000 Independence Avenue SW, Washington, DC 20585-0121. Telephone: (202) 287-1445. If possible, please submit all items on a compact disc (CD), in which case it is not necessary to include printed copies.

4. *Hand Delivery/Courier:* Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, 950 L'Enfant Plaza SW, Suite 600, Washington, DC 20024. Telephone: (202) 287-1445. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

No telefacsimilies (faxes) will be accepted. For detailed instructions on submitting comments and additional information on this process, see section III of this document.

Docket: The docket for this activity, which includes **Federal Register** notices, comments, and other supporting documents/materials, is available for review at <http://www.regulations.gov>. All documents in the docket are listed in the <http://www.regulations.gov> index. However, some documents listed in the index, such as those containing information that is exempt from public disclosure, may not be publicly available.

The docket web page can be found at <http://www.regulations.gov/docket?D=EERE-2018-BT-TP-0020>. The docket web page will contain simple instructions on how to access all documents, including public comments, in the docket. See section III for information on how to submit comments through <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Ms. Jennifer Tiedeman, U.S. Department of Energy, Office of the General Counsel, GC-33, 1000 Independence Avenue SW, Washington, DC 20585-0121. Telephone: (202) 287-6111. Email: Jennifer.Tiedeman@Hq.Doe.Gov.

For further information on how to submit a comment or review other public comments and the docket, contact the Appliance and Equipment Standards Program staff at (202) 287-1445 or by email: ApplianceStandardsQuestions@ee.doe.gov.

SUPPLEMENTARY INFORMATION:

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I. Authority and Background

The Energy Policy and Conservation Act of 1975 ("EPCA" or "the Act"),¹ Public Law 94-163 (42 U.S.C. 6291-6317, as codified), among other things, authorizes DOE to regulate the energy efficiency of a number of consumer products and industrial equipment. Title III, Part B² of EPCA established the Energy Conservation Program for Consumer Products Other Than Automobiles, which sets forth a variety of provisions designed to improve energy efficiency. Title III, Part C of EPCA established the Energy Conservation Program for Certain Industrial Equipment.

Under EPCA, DOE's energy conservation program consists essentially of four parts: (1) Testing, (2) labeling, (3) Federal energy conservation standards, and (4) certification and enforcement procedures. Relevant provisions of the Act include definitions (42 U.S.C. 6291; 42 U.S.C. 6311), energy conservation standards (42 U.S.C. 6295; 42 U.S.C. 6317), test procedures (42 U.S.C. 6293; 42 U.S.C. 6314), labeling provisions (42 U.S.C. 6294; 42 U.S.C. 6315), and the authority to require information and reports from manufacturers (42 U.S.C. 6296; 42 U.S.C. 6316).

DOE's test procedures are required to be reasonably designed to produce test

¹ All references to EPCA in this document refer to the statute as amended through the EPS Improvement Act of 2017, Public Law 115-115 (January 12, 2018).

² For editorial reasons, upon codification in the U.S. Code, Part B was redesignated Part A.

results that measure energy efficiency, energy use, water use (in the case of showerheads, faucets, water closets and urinals), or estimated annual operating cost of covered products or equipment during a representative average use cycle or period of use, and they cannot be unduly burdensome to conduct. (42 U.S.C. 6293(b)(3); 42 U.S.C. 6314(a)(2))

II. Request for Information

DOE is issuing this RFI for the purpose of gathering information on how the Department could reasonably design its test procedures to produce results representative of average use cycles or periods of use, while at the same time ensure that they are not unduly burdensome to conduct. The Department is interested in identifying specific instances in which its test procedures' methods of measuring energy use have become unnecessarily complex, potentially incorporating the testing of modes and/or functions that do not, in fact, produce results that are representative of average use cycles or periods of use. In certain cases, DOE's test procedures have evolved in response to product evolution in the market, including increased product functionality and modes of product operation. This trend may have contributed to procedures that, while accounting for a wide variety of functions, cease to accurately capture representative average use cycles or periods of use, as required by EPCA. (42 U.S.C. 6293(b)(3); 42 U.S.C. 6314(a)(2))

DOE seeks information with respect to any of its test procedures for both consumer products and industrial equipment, which stakeholders believe could be improved to produce results that are representative of average use cycles or periods of use and are not unduly burdensome to conduct.

Consider an example from DOE's clothes washer test procedure. Over time, machine labeling and literature have evolved to the point that the term "normal" cycle, as previously defined in the DOE test procedure, no longer captured all of the control settings most consumers would typically—or could possibly—choose in operating the machine to wash their laundry. (See, e.g., 75 FR 57556, 57575 (Sept. 21, 2010)). Further, the range of cycle options and terminology on the control panels changed over time such that many machines no longer refer to a "normal" cycle, instead relying upon other terms. DOE concluded that testing only the wash temperature options available on what has typically been considered the normal cycle, despite consumers being able to access the other temperature options by switching out of

the normal cycle, may not result in testing that "contributes to an accurate representation of energy consumption as used by consumers." *Id.*: 80 FR 46730, 46737 (Aug. 5, 2015). The standard of "energy consumption as used by consumers", however, appears to be inconsistent with the statutory requirement for test procedures at 42 U.S.C. 6293(b). Specifically, the statute requires a test method that measures energy use at those wash or rinse temperature selections that comprise a "representative average use cycle or period of use"—not every wash or rinse temperature available on the machine.³

For two other examples, consider DOE test procedures for single-package vertical air conditioners and heat pumps and commercial water source heat pumps. DOE recently issued two requests for information that asked commenters to consider whether changes to the test procedures are needed with regard to fan energy use to properly characterize a representative average use cycle per 42 U.S.C. 6293(b), or whether including such energy use would be "additive of other existing accounting of fan energy use." See 83 FR 34499, 34503, 504 (July 29, 2018); 83 FR 29048, 29050 (June 22, 2018).

Also consider the current DOE test procedure for ceiling fans, which requires manufacturers to test multi-mount ceiling fans—i.e., fans that can be mounted in either the standard or hugger position—to test the fan in both positions. 81 FR 48620, 48633 (July 25, 2016). DOE discussed in the proposed rule, however, data that suggested that fans were installed in the standard position 73 percent of the time. 79 FR 62522, 62532 (Oct. 17, 2014). As a result, testing in the standard position arguably meets the statutory test of measuring the energy use of the product during a representative average use cycle or period of use, whereas requiring testing in the more energy-intensive hugger configuration may not.

There are instances for which the DOE test procedures rely on streamlined approaches so as not to be unduly

³ There are other provisions of the clothes washer test procedure that may also be inconsistent with the statutory requirement of measuring energy use or efficiency "during a representative average use cycle or period of use." For example, the DOE test procedure specifies that the cycle considered to be the "Normal cycle" must be able to wash "up to a full load," even though the average load has the highest load usage factor in the test procedure based on consumer use data. DOE further stated that the DOE test procedure "approximates consumer usage habits" by requiring minimum, average, and maximum load sizes, which also may be inconsistent with the statutory requirement to measure the energy use or efficiency during a representative use cycle or period of use. 80 FR 46730, 46742 (Aug. 5, 2015).

burdensome, while still being designed to reasonably to provide results that are representative of an average use cycle or period of use. For one example, DOE's existing test procedures for refrigerators, refrigerator-freezers, and freezers generally require testing with the cabinet doors kept closed in an environmentally-controlled room at 90 °F temperature. This test condition is intended to simulate performance in more typical room temperature conditions (72 °F) with door openings. See, 10 CFR 430.23(a)(1) and (b)(7)). Requiring actual door openings during testing can make it difficult to maintain the necessary operating conditions and introduces test variability. It also would increase test burden by requiring additional equipment and labor for test setup and conducting the test. The 90 °F ambient condition with no door openings is designed to provide a measurement consistent with representative average consumer use, while avoiding excessive testing burden. 74 FR 29824, 29831.

A further example is the test procedure for dehumidifiers. In application, a dehumidifier generally cycles through dehumidification mode and off-cycle mode based on ambient room conditions (i.e., the dehumidifier operates until the ambient reaches the humidity setpoint, then it cycles off, and then cycles back on when ambient humidity increases above a certain level). Instead of operating a dehumidifier continuously through varying conditions to achieve the different modes, the DOE test procedure requires testing the dehumidification mode, off-cycle mode, and other low-power modes separately. See generally, appendix X1 of 10 CFR part 430, subpart B. Prescribed hours of operation for each mode are then used to calculate the associated annual energy consumption and calculate the integrated energy factor, the metric for the dehumidifier energy conservation standard effective in 2019. *Id.* The hours allocated between dehumidification mode and off-cycle mode are intended to reflect the cyclic operation between these modes for a dehumidifier, so that the test procedure produces results that measure energy efficiency during a representative average use cycle or period of use. This approach reduces the time necessary for testing and avoids the additional test burden that would be required to properly control and account for varying ambient test conditions.

The examples described above are just that; examples to highlight the issue upon which DOE seeks input. These examples are not intended suggest and

particular outcome or in any way to limit the requested input from interested parties on how DOE might improve its test procedures to better capture average use cycles or periods of use, while minimizing regulatory test burdens. Rather, DOE is interested in relevant arguments and suggestions and input across all product and equipment types.

DOE would specifically be interested in whether there is reliable, non-proprietary consumer use data that could better inform its understanding of average use cycles or periods of use, or a less burdensome definition of normal cycle that could capture such use. DOE also welcomes comments on other issues relevant to this topic that may not specifically be identified in this document. In particular, DOE notes that under Executive Order 13771, "Reducing Regulation and Controlling Regulatory Costs," Executive Branch agencies such as DOE are directed to manage the costs associated with the imposition of expenditures required to comply with Federal regulations. See 82 FR 9339 (February 3, 2017). Pursuant to that Executive Order, DOE encourages the public to provide input on measures DOE could take to lower the cost of its regulations applicable to appliances or equipment.

III. Submission of Comments

DOE invites all interested parties to submit in writing, by the date listed in the **DATES** section of this notice, comments and information on matters addressed in this notice. These comments and information will aid in DOE's better understanding of how its test procedures could potentially be improved to best produce results that are representative of average use cycles or periods of use, and the Department's better understanding of any related concerns with respect to undue regulatory burden.

Submitting comments via <http://www.regulations.gov>. The <http://www.regulations.gov> web page will require you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. Persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to <http://www.regulations.gov> information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (CBI)). Comments submitted through <http://www.regulations.gov> cannot be claimed as CBI. Comments received through the website will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section.

DOE processes submissions made through <http://www.regulations.gov> before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that <http://www.regulations.gov> provides after you have successfully uploaded your comment.

Submitting comments via email, hand delivery, or mail. Comments and documents submitted via email, hand delivery, or mail also will be posted to <http://www.regulations.gov>. If you do not want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information on a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. If you submit via mail or hand delivery, please provide all items on a CD, if feasible. It is not necessary to submit printed copies. No facsimiles (faxes) will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or

Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, written in English and free of any defects or viruses. Documents should not contain special characters or any form of encryption and, if possible, they should carry the electronic signature of the author.

Campaign form letters. Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

Confidential Business Information. According to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email, postal mail, or hand delivery two well-marked copies: One copy of the document marked confidential including all the information believed to be confidential, and one copy of the document marked "non-confidential" with the information believed to be confidential deleted. Submit these documents via email or on a CD, if feasible. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

Factors of interest to DOE when evaluating requests to treat submitted information as confidential include (1) a description of the items, (2) whether and why such items are customarily treated as confidential within the industry, (3) whether the information is generally known by or available from other sources, (4) whether the information has previously been made available to others without obligation concerning its confidentiality, (5) an explanation of the competitive injury to the submitting person which would result from public disclosure, (6) when such information might lose its confidential character due to the passage of time, and (7) why disclosure of the information would be contrary to the public interest.

It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

DOE considers public participation to be a very important part of the process for developing a greater understanding of the emerging "smart" technology sector. DOE actively encourages the participation and interaction of the public during the comment period in each stage of this process. Interactions

with and between members of the public provide a balanced discussion of the issues and assist DOE in the process. Anyone who wishes to be added to the DOE mailing list to receive future notices and information about this process should contact Appliance and Equipment Standards Program staff at (202) 287-1445 or via email at ApplianceStandardsQuestions@ee.doe.gov.

Signed in Washington, DC, on March 8, 2019.

Daniel R. Simmons,

Assistant Secretary, Energy Efficiency and Renewable Energy.

[FR Doc. 2019-04999 Filed 3-15-19; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 13

[Docket No.: FAA-2017-1051; Notice No. 10-86]

RIN 2120-AL00

Update to Investigative and Enforcement Procedures; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM); correction.

SUMMARY: The FAA is correcting an NPRM published on February 12, 2019. In that document, the FAA proposed to amend its regulations to the procedural rules governing Federal Aviation Administration investigations and enforcement actions. This document corrects two errors in the **FOR FURTHER INFORMATION CONTACT** section of that document and one error in the footnote of the “Subpart A—General Authority To Re-Delegate and Investigative Procedures” section of that document.

DATES: The comment period for the proposed rule published February 12, 2019, at will close May 13, 2019.

FOR FURTHER INFORMATION CONTACT: For questions concerning this action regarding 14 CFR part 13, subparts A through C, E, and F, contact Jessica E. Kabaz-Gomez, Office of the Chief Counsel, AGC-300, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone (202) 267-7395; email Jessica.Kabaz-Gomez@faa.gov, or Cole R. Milliard, Office of the Chief Counsel, AGC-300, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591;

telephone (202) 267-3452; email Cole.Milliard@faa.gov. For questions concerning this action regarding 14 CFR part 13, subpart D and G, contact John A. Dietrich, Office of the Chief Counsel, FAA Office of Adjudication, AGC-70, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone (202) 267-3433; email John.A.Dietrich@faa.gov. For questions concerning this action regarding 14 CFR part 13, subpart G, you may also contact Marie Collins, Office of the Chief Counsel, Office of Adjudication, AGC-70, 800 Independence Avenue SW, Washington, DC 20591; telephone (202) 267-3522; email: marie.collins@faa.gov.

SUPPLEMENTARY INFORMATION:

Background

On February 12, 2019, the FAA published an NPRM entitled, “Update to Investigative and Enforcement Procedures” (84 FR 3614).

In that NPRM the FAA proposed to amend its regulations to the procedural rules governing Federal Aviation Administration investigations and enforcement actions. The proposed revisions include updates to statutory and regulatory references, updates to agency organizational structure, elimination of inconsistencies, clarification of ambiguity, increases in efficiency, and improved readability.

In the NPRM, the incorrect attorney is listed as the contact person for subpart G and another attorney was not identified as additional contact person for subpart G. The footnote discussing the proposed changes to 14 CFR 13.1 incorrectly identifies a FAA Order. This document corrects these errors to accurately reflect the contact information for questions concerning 14 CFR part 13, subpart G and the FAA Order referenced.

Correction

In FR Doc. 2019-00771, Vol. 84, No. 29, beginning on page 3614 in the **Federal Register** of February 12, 2019, make the following corrections:

1. On page 3614, in the second column, in the first paragraph under **FOR FURTHER INFORMATION CONTACT** correct “For questions concerning this action regarding 14 CFR part 13, subpart D, contact John A. Dietrich” to read “For questions concerning this action regarding 14 CFR part 13, subpart D and G, contact John A. Dietrich” and correct “For questions concerning this action regarding 14 CFR part 13, subpart G, contact Vicki S. Leemon, Office of the Chief Counsel, Office of Adjudication, AGC-70, 800 Independence Avenue SW, Washington, DC 20591; telephone

(202) 267-0415; email: vicki.leemon@faa.gov” to read “For questions concerning this action regarding 14 CFR part 13, subpart G, you may also contact Marie Collins, Office of the Chief Counsel, Office of Adjudication, AGC-70, 800 Independence Avenue SW, Washington, DC 20591; telephone (202) 267-3522; email: marie.collins@faa.gov.”

2. On Page 3617, in the first column, in the footnotes, correct “FAA Order 1150.154A” to read FAA Order 1100.154A”.

Issued On: March 4, 2019.

Lirio Liu,

Executive Director, Office of Rulemaking.

[FR Doc. 2019-04658 Filed 3-15-19; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG-2019-0107]

RIN 1625-AA08

Special Local Regulation; Choptank River, Cambridge, MD

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to establish special local regulations for certain waters of the Choptank River. This action is necessary to provide for the safety of life on these navigable waters located at Cambridge, MD, during a high-speed power boat racing event on July 27, 2019, and July 28, 2019. This proposed rulemaking would prohibit persons and vessels from being in the regulated area unless authorized by the Captain of the Port Maryland-National Capital Region or Coast Guard Patrol Commander. We invite your comments on this proposed rulemaking. **DATES:** Comments and related material must be received by the Coast Guard on or before April 17, 2019.

ADDRESSES: You may submit comments identified by docket number USCG-2019-0107 using the Federal eRulemaking Portal at <http://www.regulations.gov>. See the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email Mr. Ron

Houck, U.S. Coast Guard Sector Maryland-National Capital Region; telephone 410-576-2674, email Ronald.L.Houck@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background, Purpose, and Legal Basis

On February 10, 2019, the Kent Narrows Racing Association of Chester, MD, notified the Coast Guard that it will be conducting the Thunder on the Choptank from 10 a.m. to 6 p.m. on July 27, 2019, and from 10 a.m. to 6 p.m. on July 28, 2019. The high-speed power boat racing event consists of approximately 60 participating inboard and outboard hydroplane and runabout race boats of various classes, 10 to 20 feet in length. The vessels will be competing on a designated, marked 1-mile oval course located in the Choptank River in a cove located between Hambrooks Bar and the shoreline at Cambridge, MD. Hazards from the power boat racing event include risks of injury or death resulting from near or actual contact among participant vessels and spectator vessels or waterway users if normal vessel traffic were to interfere with the event. Additionally, such hazards include participants operating near designated navigation channels, as well as operating near approaches to local public boat ramps, private marinas and yacht clubs, and waterfront businesses. The COTP Maryland-National Capital Region has determined that potential hazards associated with the power boat races would be a safety concern for anyone intending to operate within certain waters of the Choptank River at Cambridge, MD.

The purpose of this rulemaking is to protect event participants, spectators, and transiting vessels on certain waters of Choptank River before, during, and after the scheduled event. The Coast Guard proposes this rulemaking under authority in 46 U.S.C. 70041, which authorizes the Coast Guard to establish and define special local regulations.

III. Discussion of Proposed Rule

The COTP Maryland-National Capital Region is proposing to establish special local regulations to be enforced from 9:30 a.m. to 6:30 p.m. on July 27, 2019,

and from 9:30 a.m. to 6:30 on July 28, 2019. The regulated area would cover all navigable waters within Hambrooks Bay and Choptank River west and south of a line commencing at the shoreline, at latitude 38°35'00" N longitude 076°04'43" W, thence east to latitude 38°35'00" N longitude 076°04'23.7" W, thence north to latitude 38°35'22.7" N, longitude 076°04'23.7" W, thence northwest to latitude 38°35'42.2" N, longitude 076°04'51.1" W at Hambrooks Bar Light LLNR 24995, thence southwest to latitude 38°35'34.2" N, longitude 076°05'12.3" W, terminating at the Hambrooks Bay breakwall as it intersects the shoreline.

This proposed rule provides additional information about areas within the regulated area, and the restrictions that apply to mariners. These areas include a "Race Area", "Buffer Zone" and "Spectator Area".

The proposed duration of the rule and size of the regulated area are intended to ensure the safety of life on these navigable waters before, during, and after the high-speed power boat races, scheduled from 10 a.m. until 6 p.m. on July 27, 2019, and July 28, 2019. The COTP and Coast Guard Patrol Commander (PATCOM) would have authority to forbid and control the movement of all vessels and persons, including event participants, in the regulated area. When hailed or signaled by an official patrol, a vessel or person in the regulated area would be required to immediately comply with the directions given by the COTP or PATCOM. If a person or vessel fails to follow such directions, the Coast Guard may expel them from the area, issue them a citation for failure to comply, or both.

Except for Thunder on the Choptank participants and vessels already at berth, a vessel or person would be required to get permission from the COTP or PATCOM before entering the regulated area while the rule is being enforced. Vessel operators could request permission to enter and transit through the regulated area by contacting the PATCOM on VHF-FM channel 16. Vessel traffic would be able to safely transit the regulated area once the PATCOM deems it safe to do so. A person or vessel not registered with the event sponsor as a participant or assigned as official patrols would be considered a spectator. Official Patrols are any vessel assigned or approved by the Commander, Coast Guard Sector Maryland-National Capital Region with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

If permission is granted by the COTP or PATCOM, a person or vessel would be allowed to enter the regulated area or pass directly through the regulated area as instructed. Vessels would be required to operate at a safe speed that minimizes wake while within the regulated area. Official patrol vessels will direct spectator vessels while within the regulated area. Vessels would be prohibited from loitering within the navigable channel. Only participant vessels and official patrol vessels would be allowed to enter the race area.

The regulatory text we are proposing appears at the end of this document.

IV. Regulatory Analyses

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

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This NPRM has not been designated a "significant regulatory action," under Executive Order 12866. Accordingly, the NPRM has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the size, duration and time of year of the racing event, which would impact a small designated area of the Choptank River for 18 total enforcement hours. The Coast Guard would issue a Broadcast Notice to Mariners via VHF-FM marine channel 16 about the status of the special local regulation. Moreover, the rule would allow vessels to seek permission to enter the regulated area, and vessel traffic would be able to safely transit the regulated area once the PATCOM deems it safe to do so.

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 regulated area may be small entities, for the reasons stated in section IV.A above, this proposed rule would not have a significant economic impact on any vessel owner or operator.

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

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

Also, this proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and

Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this proposed rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Directive 023–01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves implementation of regulations within 33 CFR part 100 applicable to organized marine events on the navigable waters of the United States that could negatively impact the safety of waterway users and shore side activities in the event area lasting for 33 hours. Normally such actions are categorically excluded from further review under paragraph L61 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

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

V. Public Participation and Request for Comments

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

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

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

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

List of Subjects in 33 CFR Part 100

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

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

- 1. The authority citation for part 100 continues to read as follows:

Authority: 46 U.S.C. 70041; 33 CFR 1.05–1.

- 2. Add § 100.501T05–0107 to read as follows:

§ 100.501T05–0107 Special Local Regulation; Choptank River, Cambridge, MD.

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

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

Maryland-National Capital Region or any Coast Guard commissioned, warrant or petty officer who has been authorized by the COTP to act on his behalf.

Coast Guard Patrol Commander (PATCOM) means a commissioned, warrant, or petty officer of the U.S. Coast Guard who has been designated by the Commander, Coast Guard Sector Maryland-National Capital Region.

Official Patrol means any vessel assigned or approved by Commander, Coast Guard Sector Maryland-National Capital Region with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

Participants means all persons and vessels registered with the event sponsor as participating in the Thunder on the Choptank or otherwise designated by the event sponsor as having a function tied to the event.

Spectators means all persons and vessels not registered with the event sponsor as participants or assigned as official patrols.

(b) *Locations*. All coordinates reference Datum NAD 1983.

(1) *Regulated area*. All navigable waters within Hambrooks Bay and Choptank River west and south of a line commencing at the shoreline, at latitude 38°35'00" N longitude 076°04'43" W, thence east to latitude 38°35'00" N longitude 076°04'23.7" W, thence north to latitude 38°35'22.7" N, longitude 076°04'23.7" W, thence northwest to latitude 38°35'42.2" N, longitude 076°04'51.1" W at Hambrooks Bar Light LLNR 24995, thence southwest to latitude 38°35'34.2" N, longitude 076°05'12.3" W, terminating at the Hambrooks Bay breakwall as it intersects the shoreline. The following locations are within the regulated area:

(2) *Race Area*. Located within the waters of Hambrooks Bay and Choptank River, between Hambrooks Bar and Great Marsh Point, MD.

(3) *Buffer Zone*. All waters within Hambrooks Bay and Choptank River (with the exception of the Race Area designated by the marine event sponsor) bound to the north by the breakwall and continuing along a line drawn from the east end of breakwall located at latitude 38°35'27.6" N, longitude 076°04'50.1" W, thence southeast to latitude 38°35'17.7" N longitude 076°04'29" W, thence south to latitude 38°35'01" N longitude 076°04'29" W, thence west to the shoreline at latitude 38°35'01" N, longitude 076°04'41.3" W.

(4) *Spectator Area*. All waters of the Choptank River, eastward and outside of Hambrooks Bay breakwall, thence bound by line that commences at latitude 38°35'27.6" N, longitude 076°04'50.1" W, thence southeast to

latitude 38°35'21.3" N, longitude 076°04'37.2" W, thence southeast to latitude 38°35'21.3" N longitude 076°04'37.2" W, thence northeast to latitude 38°35'27.8" N longitude 076°04'30.5" W, thence northwest to latitude 38°35'42.2" N longitude 076°04'51.1" W at Hambrooks Bar Light LLNR 24995, thence south to and terminating at the point of origin.

(c) *Special local regulations*: (1) The COTP Maryland-National Capital Region or PATCOM may forbid and control the movement of all vessels and persons, including event participants, in the regulated area. When hailed or signaled by an official patrol, a vessel or person in the regulated area shall immediately comply with the directions given by the patrol. Failure to do so may result in the Coast Guard expelling the person or vessel from the area, issuing a citation for failure to comply, or both. The COTP Maryland-National Capital Region or PATCOM may terminate the event, or a participant's operations at any time the COTP Maryland-National Capital Region or PATCOM believes it necessary to do so for the protection of life or property.

(2) Except for participants and vessels already at berth, a person or vessel within the regulated area at the start of enforcement of this section must immediately depart the regulated area.

(3) A spectator must contact the PATCOM to request permission to either enter or pass through the regulated area. The PATCOM, and official patrol vessels enforcing this regulated area, can be contacted on marine band radio VHF-FM channel 16 (156.8 MHz) and channel 22A (157.1 MHz). If permission is granted, the spectator may enter the designated Spectator Area or must pass directly through the regulated area as instructed by PATCOM. A vessel within the regulated area must operate at safe speed that minimizes wake. A spectator vessel must not loiter within the navigable channel while within the regulated area.

(4) A person or vessel that desires to transit, moor, or anchor within the regulated area must first obtain authorization from the COTP Maryland-National Capital Region or PATCOM. A person or vessel seeking such permission can contact the COTP Maryland-National Capital Region at telephone number 410-576-2693 or on Marine Band Radio, VHF-FM channel 16 (156.8 MHz) or the PATCOM on Marine Band Radio, VHF-FM channel 16 (156.8 MHz).

(5) The Coast Guard will publish a notice in the Fifth Coast Guard District Local Notice to Mariners and issue a

marine information broadcast on VHF-FM marine band radio announcing specific event date and times.

(d) *Enforcement officials*. The Coast Guard may be assisted with marine event patrol and enforcement of the regulated area by other Federal, State, and local agencies.

(e) *Enforcement periods*. This section will be enforced from 9:30 a.m. to 6:30 p.m. on July 27, 2019, and, from 9:30 a.m. to 6:30 p.m. on July 28, 2019.

Dated: March 12, 2019.

Joseph B. Loring,

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

[FR Doc. 2019-04954 Filed 3-15-19; 8:45 am]

BILLING CODE 9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG-2019-0010]

RIN 1625-AA08

Special Local Regulation: Sail Grand Prix 2019 Race Event, San Francisco, CA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a temporary special local regulation in the navigable waters of San Francisco Bay in San Francisco, CA in support of the San Francisco Sail Grand Prix 2019 race periods on May 4, 2019 and May 5, 2019. This special local regulation is necessary to ensure the safety of mariners transiting the area from the dangers associated with high-speed sailing activities associated with the Sail Grand Prix 2019 race event. This proposed temporary special local regulation would temporarily restrict vessel traffic adjacent to the city of San Francisco waterfront in the vicinity of the Golden Gate Bridge and Alcatraz Island and prohibit vessels and persons not participating in the race event from entering the dedicated race area. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before April 17, 2019.

ADDRESSES: You may submit comments identified by docket number USCG-2019-0010 using the Federal eRulemaking Portal at <https://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 Lieutenant Emily K. Rowan, U.S. Coast Guard District 11, Sector San Francisco, at 415-399-7443, *SFWaterways@uscg.mil*.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background, Purpose, and Legal Basis

On October 12, 2018, the LeadDog Marketing Corporation notified the Coast Guard of an intention to conduct the “Sail Grand Prix 2019” in San Francisco Bay. Sail Grand Prix is a sailing league featuring world-class sailors racing 50-foot foiling catamarans. The inaugural season started in February 2019 in five iconic cities throughout the world, traveling to San Francisco Bay in May 2019. In San Francisco, they propose to take advantage of the natural amphitheater that the central bay and city waterfront provide.

LeadDog Marketing Corporation has applied for a Marine Event Permit to hold the Sail Grand Prix 2019 race event on the waters of San Francisco Bay in California. The Coast Guard has not approved the Marine Event Permit and is still evaluating the application. If the permit is approved, however, we anticipate that a special local regulation may be necessary to ensure public safety during the race. To provide adequate time for public input, we are proposing this special local regulation prior to a decision on the Marine Event Permit.

Prior to drafting this Notice of Proposed Rulemaking, the Coast Guard solicited input from maritime stakeholders to better understand the nature of commercial and recreational activities on the Bay and how the proposed Sail Grand Prix 2019 race event could impact such activities. The Coast Guard participated in both a navigation work group and monthly public meeting of the local Harbor Safety Committee (HSC) to meet with stakeholders to obtain information and gather feedback on notional approaches to enacting regulation in connection with the Sail Grand Prix.

The proposed special local regulation would encompass all navigable waters of the San Francisco Bay, from surface to bottom, within the area formed by connecting the following latitude and longitude points in the following order: 37°48′18″ N, 122°27′44″ W; thence to 37°48′30″ N, 122°27′56″ W; thence to 37°49′14″ N, 122°27′59″ W; thence to 37°49′30″ N, 122°25′36″ W; thence to 37°49′10″ N, 122°25′10″ W; thence to 37°48′45″ N, 122°25′10″ W; thence to 37°48′42″ N, 122°25′13″ W and thence along the shore to the point of beginning. Located within this footprint, there will be three separate regulated areas: Zone “A”, the Official Race Box Area; Zone “B”, the Spectator Area; and Zone “C”, the Waterfront Passage Area. Zone “A”, the Official Race Box Area, will be marked by approximately 12 colored visual markers. The position of these markers will be specified via Local Notice to Mariners at least 2 weeks prior to the event and via Broadcast Notice to Mariners at least 7 days prior to the event. Because of the hazards posed by the sailing competition, Zone “A” is necessary to provide protection from the operation of the high-speed sailing vessels within this area.

Zone “B”, the Spectator Area, will include specified parts of the waters immediately adjacent to racing Zone “A” and will be defined by latitude and longitude points as per Broadcast Notice to Mariners. Zone “B” will be further divided into three additional sub-areas: Zone “B1 East”, Zone “B1 West”, and Zone “B2”. Zone “B1” will be the general spectator zone that is open to all vessel spectators. Zone “B2” will be a separate designated spectator area marked by approximately four colored buoys that will be managed by marine event sponsor officials. The designation of Zone “B”, to include Zone “B1 East”, Zone “B1 West”, and Zone “B2”, will allow spectators to observe the Sail Grand Prix 2019 race event in a regulated area at a safe distance from the sailing race occurring in Zone “A”.

Zone “C” will be the designated Waterfront Passage Area along the city of San Francisco waterfront marked by buoys on one side and the shoreline on the other. This one-directional lane will provide vessels the opportunity to pass along the San Francisco waterfront, avoiding interference with the established areas. Vessels will be authorized to transit through this zone with approval from the COTP or designated representative. Zone “C” is essential to provide vessels the opportunity to transit along the city of San Francisco waterfront while maintaining the integrity of the regulated areas for the race event. Due

to the dynamic nature of the Sail Grand Prix 2019, there is a need for a Waterfront Passage Area so mariners along the waterfront can transit the impacted waterways at designated times. This Zone “C” is necessary for the protection of waterway users and participants in the sailing race event while minimizing the impact to the city of San Francisco maritime community.

These regulations are needed to keep persons and vessels away from the sailing race vessels, which exhibit unpredictable maneuverability and have a demonstrated likelihood for capsizing based on the simulation of racing scenarios. The proposed special local regulation would help prevent injuries and property damage that may be caused upon impact by these fast-moving vessels. The provisions of this temporary special local regulation would not apply to anchored vessels, nor would they exempt racing vessels from any federal, state, or local laws or regulations, including Nautical Rules of the Road. The Coast Guard proposes this rulemaking under authority in 33 U.S.C. 1231.

Under 33 CFR 100.35, the Coast Guard District Commander has authority to promulgate certain special local regulations deemed necessary to ensure the safety of life on the navigable waters immediately before, during, and immediately after an approved regatta. Pursuant to 33 CFR 1.05-1(i), the Commander of Coast Guard District 11 has delegated to the COTP San Francisco the responsibility of issuing such regulations.

III. Discussion of Proposed Rule

The COTP proposes to establish a special local regulation associated with the Sail Grand Prix 2019 race event from 8:00 a.m. to 2:00 p.m. on May 4, 2019, and 8:00 a.m. to 2:00 p.m. on May 5, 2019. The areas regulated by this special local regulation would be east of the Golden Gate Bridge, south of Alcatraz Island, west of Treasure Island, and in the vicinity of the city of San Francisco waterfront. The Coast Guard proposes to establish a primary race area, a spectator area, and a Waterfront Passage Area. An image of these proposed regulated areas may be found in the docket. The special local regulation will cover all navigable waters of the San Francisco Bay, from surface to bottom, within the area formed by connecting the following latitude and longitude points in the following order: 37°48′18″ N, 122°27′44″ W; thence to 37°48′30″ N, 122°27′56″ W; thence to 37°49′14″ N, 122°27′59″ W; thence to 37°49′30″ N, 122°25′36″ W; thence to 37°49′10″ N, 122°25′10″ W; thence to 37°48′45″ N, 122°25′10″ W;

thence to 37°48'42" N, 122°25'13" W and thence along the shore to the point of beginning. Zone "A", Zone "B" and Zone "C" are all to be included within the proposed special local regulation.

The duration of the establishment of the proposed special local regulation is intended to ensure the safety of vessels in these navigable waters during the scheduled race days. This proposed temporary special local regulation would temporarily restrict vessel traffic adjacent to the city of San Francisco waterfront in the vicinity of the Golden Gate Bridge and Alcatraz Island and prohibit vessels and persons not participating in the race event from entering the established race area. The regulatory text we are proposing appears at the end of this document.

IV. Regulatory Analyses

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

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This NPRM has not been designated a "significant regulatory action" under Executive Order 12866. Accordingly, the NPRM has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the size, location, and duration of the special local regulation. With this special local regulation, the Coast Guard intends to maintain commercial access to the ports through an alternate vessel traffic management scheme. The special local regulation is limited in duration, and is limited to a narrowly tailored geographic area with designated and adequate space for transiting vessels to pass when permitted by the COTP or a designated representative. In addition, although this rule restricts access to the waters encompassed by the special local regulation, the effect of this rule will not be significant because the local waterway users will be notified in advance via public Broadcast Notice to Mariners to ensure the special local

regulation will result in minimum impact. Therefore mariners will be able to plan ahead and transit outside of the periods of enforcement of the special local regulation, and if they choose not to do so, they will be able to transit the city of San Francisco Waterfront via Zone "C" with approval from the COTP or designated representative. The entities most likely to be affected are commercial vessels and pleasure craft engaged in recreational activities.

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.

This rule may affect owners and operators of commercial vessels and pleasure craft engaged in recreational activities and sightseeing. This special location regulation would not have a significant economic impact on a substantial number of small entities for the reasons stated in section IV.A. above. This special local regulation would be subject to enforcement for a limited duration. When the special local regulation is in effect, vessel traffic could pass safely around the regulated area. The maritime public would be advised in advance of this special local regulation via Broadcast Notice to Mariners.

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

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this

proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

Also, this proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

If you believe this proposed rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

E. Unfunded Mandates Reform Act

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

F. Environment

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

do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves a special local regulation that would create regulated areas of limited size and duration that includes defined regulated areas for vessel traffic to pass. Normally such actions are categorically excluded from further review under paragraphs L61 of Appendix A, Table 1 of DHS Instruction Manual 023-01-001-01, Rev. 01. A preliminary Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

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

V. Public Participation and Request for Comments

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

We encourage you to submit comments through the Federal eRulemaking Portal at <https://www.regulations.gov>. If your material cannot be submitted using <https://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 <https://www.regulations.gov> and will include any personal information you have provided. For more about privacy and the docket, visit <https://www.regulations.gov/privacyNotice>.

Documents mentioned in this NPRM as being available in the docket, and all public comments, will be in our online docket at <https://www.regulations.gov> and can be viewed by following that website's instructions. Additionally, if

you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

List of Subjects in 33 CFR Part 100

The subjects assigned to the Part are: Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for Part 100 continues to read as follows:

Authority 33 U.S.C. 1233; 33 CFR 1.05-1.

■ 2. Add § 100.35.T11-968 to read as follows:

§ 100.35.T11-968 Special Local Regulation; Sail Grand Prix 2019 Race Event, San Francisco, CA

(a) *Location*. The following area is a temporary special local regulation: all navigable waters of the San Francisco Bay, from surface to bottom, encompassed by a line connecting the following points, beginning at:

37°48'18" N, 122°27'44" W; thence to 37°48'30" N, 122°27'56" W; thence to 37°49'14" N, 122°27'59" W; thence to 37°49'30" N, 122°25'36" W; thence to 37°49'10" N, 122°25'10" W; thence to 37°48'45" N, 122°25'10" W; thence to 37°48'42" N, 122°25'13" W and thence along the shore to the point of beginning.

(b) *Definitions*. As used in this section,

(1) “*Designated representative*” means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer on a Coast Guard vessel or a Federal, State, or local officer designated by or assisting the COTP in the enforcement of the special local regulation.

(2) “*Patrol Commander*” or “*PATCOM*” means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer, or a Federal, State, or local officer designated by the Captain of the Port San Francisco (COTP), to assist in the enforcement of the special local regulation.

(3) *Zone “A”* means the Official Race Box Area, which is marked by approximately 12 colored visual markers within the special local regulation area designated in paragraph (a). The position of these markers will be specified via Local Notice to Mariners at least 2 weeks prior to the

event and Broadcast Notice to Mariners at least 7 days prior to the event.

(4) *Zone “B”* means the Spectator Area, which is within the special local regulation area designated in paragraph (a) and outside of Zone A, the Official Race Box Area. Zone B is defined by latitude and longitude points as per Broadcast Notice to Mariners and Local Notice to Mariners. Zone “B” is be further divided into three additional sub-areas: Zone “B1 East”, Zone “B1 West”, and Zone “B2”. Zone “B1 East” and Zone “B1 West” mean the general spectator zone that is open to all vessel spectators. Zone “B2” means the separate designated spectator area marked by approximately four colored buoys that will be managed by marine event sponsor officials.

(5) *Zone “C”* means the Waterfront Passage Area. Zone C is within the special local regulation but not within Zone A or Zone B. This one-directional lane provides vessels the opportunity to pass along the San Francisco waterfront, avoiding interference with other established areas. Vessels will be authorized to transit through this zone with approval from the COTP or designated representative.

(c) *Special Local Regulation*. The following regulations apply between 8:00 a.m. and 2 p.m. on the race event days.

(1) Only support and race vessels may be authorized by the COTP or designated representative to enter Zone “A” during the race event. Vessel operators desiring to enter or operate within Zone “A” must contact the COTP or a designated representative to obtain permission to do so. Persons and vessels may request permission to transit Zone “A” on VHF-23A.

(2) Spectator vessels in Zone “B” must maneuver as directed by the COTP or designated representative. When hailed or signaled by the COTP or designated representative by a succession of sharp, short signals by whistle or horn, the hailed vessel must come to an immediate stop and comply with the lawful directions issues. Failure to comply with a lawful direction may result in additional operating restrictions, citation for failure to comply, or both.

(3) Spectator vessels in Zone “B” must operate at safe speeds which will create minimal wake.

(4) Vessel operators desiring to enter or operate within Zone “C”, the Waterfront Passage Area, must contact the COTP or a designated representative to obtain permission to do so. Vessel operators given permission to enter or operate in Zone “C” must comply with all directions given to them by the

COTP or designated representative. Persons and vessels may request permission to transit Zone “C” on VHF–23A.

(5) Rafting and anchoring of vessels are prohibited within Zones “A”, “B”, or “C”.

(d) *Enforcement periods.* The special local regulation will be enforced for race events on 4 May 2019 and 5 May 2019 from 8:00 a.m. until approximately 2:00 p.m. each day. At least 24 hours in advance of the race event, the COTP will notify the maritime community of periods during which these zones will be enforced via Notice to Mariners and via the Coast Guard Boating Public Safety Notice.

Dated: February 28, 2019.

Anthony J. Ceraolom,

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

[FR Doc. 2019–04932 Filed 3–15–19; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG–2019–0137]

RIN 1625–AA08

Special Local Regulation; Breton Bay, McIntosh Run, Leonardtown, MD

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish special local regulations for certain waters of Breton Bay and McIntosh Run. This action is necessary to provide for the safety of life on these navigable waters located at Leonardtown, MD, during a high-speed power boat demonstration event on October 5, 2019, and October 6, 2019. This proposed rulemaking would prohibit persons and vessels from being in the regulated area unless authorized by the Captain of the Port Maryland–National Capital Region or Coast Guard Patrol Commander. We invite your comments on this proposed rulemaking. **DATES:** Comments and related material must be received by the Coast Guard on or before April 17, 2019.

ADDRESSES: You may submit comments identified by docket number USCG–2019–0137 using the Federal eRulemaking Portal at <http://www.regulations.gov>. See the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section for

further instructions on submitting comments.

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

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background, Purpose, and Legal Basis

The Southern Maryland Boat Club of Leonardtown, MD, has notified the Coast Guard that it will be conducting the Southern Maryland Boat Club Bash on the Bay from 9 a.m. to 5 p.m. on October 5, 2019, and from 9 a.m. to 5 p.m. on October 6, 2019. The high-speed power boat event consists of approximately 50 participating Vintage & Historic race boats, including runabouts, v-bottoms, tunnel hulls and hydroplanes, 12 to 21 feet in length, participating in an exhibition with boats operating in heats along a marked racetrack-type course one mile in length and 150 feet in width, located in Breton Bay and McIntosh Run at Leonardtown, MD. The regatta is not a competition, but rather a demonstration of the vintage race craft. Hazards from the high-speed power boat demonstration event include participants operating within and adjacent to designated navigation channels and interfering with vessels intending to operate within those channels, as well as operating within approaches to local public boat landings. The Captain of the Port (COTP) Maryland–National Capital Region has determined that potential hazards associated with the high-speed power boat event would be a safety concern for anyone intending to operate within certain waters of Breton Bay and McIntosh Run at Leonardtown, MD, operating in or near the event area.

The purpose of this rulemaking is to protect event participants, spectators and transiting vessels on certain waters of Breton Bay and McIntosh Run before, during, and after the scheduled event. The Coast Guard proposes this rulemaking under authority in 46 U.S.C. 70041, which authorizes the Coast Guard to establish and define special local regulations.

III. Discussion of Proposed Rule

The COTP Maryland–National Capital Region proposes to establish special local regulations to be enforced from 8 a.m. to 6 p.m. on October 5, 2019, and from 8 a.m. to 6 p.m. on October 6, 2019. The regulated area would cover all navigable waters of Breton Bay and McIntosh Run, immediately adjacent to Leonardtown, MD shoreline, from shoreline to shoreline, within an area bounded to the east by a line drawn along latitude 38°16′43″ N and bounded to the west by a line drawn along longitude 076°38′30″ W, located at Leonardtown, MD.

This proposed rule provides additional information about areas within the regulated area, their definitions, and the restrictions that would apply. These areas include a “Course Area”, “Buffer Zone”, “Milling Area” and “Spectator Area”. They lie within an area bounded to the east by a line drawn along latitude 38°16′43″ N and bounded to the west by a line drawn along longitude 076°38′30″ W, located in Breton Bay and McIntosh Run, at Leonardtown, MD.

The proposed duration of the special local regulations and size of the regulated area are intended to ensure the safety of life on these navigable waters before, during, and after the high-speed power boat event, scheduled from 9 a.m. until 5 p.m. on October 5, 2019, and October 6, 2019. The COTP and PATCOM would have authority to forbid and control the movement of all vessels and persons, including event participants, in the regulated area. When hailed or signaled by an official patrol, a vessel or person in the regulated area would be required to immediately comply with the directions given by the COTP or Coast Guard Patrol Commander (PATCOM). If a person or vessel fails to follow such directions, the Coast Guard may expel them from the area, issue them a citation for failure to comply, or both. Official Patrols are any vessel assigned or approved by the Commander, Coast Guard Sector Maryland–National Capital Region with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

Except for Southern Maryland Boat Club Bash on the Bay participants and vessels already at berth, a vessel or person would be required to get permission from the COTP or PATCOM before entering the regulated area. Vessel operators can request permission to enter and transit through the regulated area by contacting the PATCOM on VHF–FM channel 16. Vessel traffic would be able to safely

transit the regulated area once the PATCOM deems it safe to do so.

If permission is granted by the COTP or PATCOM, a person or vessel would be allowed to enter the regulated area or pass directly through the regulated area as instructed. Vessels would be required to operate at a safe speed that minimizes wake while within the regulated area. Official patrol vessels will direct spectator vessels while within the regulated area. Vessels would be prohibited from loitering within the navigable channel. Only participant vessels and official patrol vessels would be allowed to enter the course area and milling area. A person or vessel not registered with the event sponsor as a participant or assigned as official patrols would be considered a spectator. Spectators are only allowed inside the regulated area if they remain within a designated spectator area. All spectator vessels must be anchored or operate at a No Wake Speed within a designated spectator area. Official patrol vessels will direct spectator vessels to the spectator area. Spectators must contact the Coast Guard Patrol Commander to request permission to pass through the regulated area. If permission is granted, spectators must pass directly through the regulated area at safe speed and without loitering.

The regulatory text we are proposing appears at the end of this document.

IV. Regulatory Analyses

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

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This NPRM has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, the NPRM has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the size, duration and time of year of the regulated area, which would impact a small designated area of Breton Bay and McIntosh Run for 20

total enforcement hours. The Coast Guard would issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 about the status of the regulated area. Moreover, the rule would allow vessels to seek permission to enter the regulated area, and vessel traffic would be able to safely transit the regulated area once the PATCOM deems it safe to do so.

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 regulated area may be small entities, for the reasons stated in section IV.A above, this proposed rule would not have a significant economic impact on any vessel owner or operator.

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

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132,

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Directive 023–01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves implementation of regulations within 33 CFR part 100 applicable to organized marine events on the navigable waters of the United States that could negatively impact the safety of waterway users and shore side activities in the event area lasting for 20 hours. Normally such actions are categorically excluded from further review under paragraph L61 of

Appendix A, Table 1 of DHS Instruction Manual 023-01-001-01, Rev. 01. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

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

V. Public Participation and Request for Comments

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

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

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

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

List of Subjects in 33 CFR Part 100

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

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 46 U.S.C. 70041; 33 CFR 1.05-1.

■ 2. Add § 100.501T05-0137 to read as follows:

§ 100.501T05-0137 Special Local Regulation; Breton Bay, McIntosh Run, Leonardtown, MD.

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

Buffer Zone is a neutral area that surrounds the perimeter of the Course Area within the regulated area described by this section. The purpose of a buffer zone is to minimize potential collision conflicts with marine event participants and spectator vessels or nearby transiting vessels. This area provides separation between a Course Area and a specified Spectator Area or other vessels that are operating in the vicinity of the regulated area established by the special local regulations.

Captain of the Port (COTP) Maryland—National Capital Region means the Commander, U.S. Coast Guard Sector Maryland—National Capital Region or any Coast Guard commissioned, warrant or petty officer who has been authorized by the COTP to act on his behalf.

Coast Guard Patrol Commander (PATCOM) means a commissioned, warrant, or petty officer of the U.S. Coast Guard who has been designated by the Commander, Coast Guard Sector Maryland—National Capital Region.

Course Area is an area described by a line bound by coordinates provided in latitude and longitude that outlines the boundary of a high-speed power boat demonstration area within the regulated area defined by this section.

Milling Area is an area described by a line bound by coordinates provided in latitude and longitude that outlines the boundary of a milling area within the regulated area defined by this section. The area is used before a demonstration start to warm up the boats engines.

Official Patrol means any vessel assigned or approved by Commander, Coast Guard Sector Maryland—National Capital Region with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

Participant means a person or vessel registered with the event sponsor as participating in the Southern Maryland Boat Club Bash on the Bay or otherwise designated by the event sponsor as having a function tied to the event.

Spectator means a person or vessel not registered with the event sponsor as

participants or assigned as official patrols.

Spectator Area is an area described by a line bound by coordinates provided in latitude and longitude that outlines the boundary of a spectator area within the regulated area defined by this part.

(b) *Locations.* All coordinates reference Datum NAD 1983.

(1) *Regulated area.* All navigable waters of Breton Bay and McIntosh Run, immediately adjacent to Leonardtown, MD shoreline, from shoreline to shoreline, within an area bounded to the east by a line drawn along latitude 38°16'43" N and bounded to the west by a line drawn along longitude 076°38'30" W, located at Leonardtown, MD. The following locations are within the regulated area:

(2) *Course Area.* The course area is a polygon in shape measuring approximately 940 yards in length by 228 yards in width. The area is bounded by a line commencing at position latitude 38°17'09.78" N, longitude 076°38'22.71" W; thence southeasterly to latitude 38°16'58.62" N, longitude 076°37'50.91" W; thence southwesterly to latitude 38°16'51.89" N, longitude 076°37'55.82" W; thence northwesterly to latitude 38°17'05.44" N, longitude 076°38'27.20" W; thence northeasterly terminating at point of origin.

(3) *Buffer Zone.* The buffer zone surrounds the entire course area described in the preceding paragraph of this section. This area is a polygon in shape and provides a buffer around the perimeter of the course area. The area is bounded by a line commencing at the shoreline west of Leonardtown Wharf Park at position latitude 38°17'13.80" N, longitude 076°38'24.72" W; thence easterly to latitude 38°16'58.61" N, longitude 076°37'44.29" W; thence southerly to latitude 38°16'46.35" N, longitude 076°37'52.54" W; thence westerly to latitude 38°16'58.78" N, longitude 076°38'26.63" W; thence northerly to latitude 38°17'07.50" N, longitude 076°38'30.00" W; thence northeasterly terminating at point of origin.

(4) *Milling Area.* The milling area is a polygon in shape and is bounded by a line commencing at the shoreline east of Leonardtown Wharf Park at position latitude 38°17'10.07" N, longitude 076°38'14.87" W; thence easterly and southerly along the shoreline to latitude 38°17'01.54" N, longitude 076°37'52.24" W; thence westerly terminating at point of origin.

(5) *Spectator Areas.* (i) Northeast Spectator Fleet Area. The designated spectator area is bounded by a line commencing at position latitude 38°16'59.10" N, longitude 076°37'45.60"

W, thence northeasterly to latitude 38°17'01.76" N, longitude 076°37'43.71" W, thence southeasterly to latitude 38°16'59.23" N, longitude 076°37'37.25" W, thence southwesterly to latitude 38°16'53.32" N, longitude 076°37'40.85" W, thence northwesterly to latitude 38°16'55.48" N, longitude 076°37'46.39" W, thence northeasterly to latitude 38°16'58.61" N, longitude 076°37'44.29" W, thence northwesterly to point of origin.

(ii) Southeast Spectator Fleet Area.

The designated spectator area is bounded by a line commencing at position latitude 38°16'47.20" N, longitude 076°37'54.80" W, thence southerly to latitude 38°16'43.30" N, longitude 076°37'55.20" W, thence easterly to latitude 38°16'43.20" N, longitude 076°37'47.80" W, thence northerly to latitude 38°16'44.80" N, longitude 076°37'48.20" W, thence northwesterly to point of origin.

(iii) South Spectator Fleet Area. The designated spectator area is bounded by a line commencing at position latitude 38°16'55.36" N, longitude 076°38'17.26" W, thence southeasterly to latitude 38°16'50.39" N, longitude 076°38'03.69" W, thence southerly to latitude 38°16'48.87" N, longitude 076°38'03.68" W, thence northwesterly to latitude 38°16'53.82" N, longitude 076°38'17.28" W, thence northerly to point of origin.

(c) *Special local regulations:* (1) The COTP Maryland—National Capital Region or PATCOM may forbid and control the movement of all vessels and persons, including event participants, in the regulated area. When hailed or signaled by an official patrol, a vessel or person in the regulated area must immediately comply with the directions given by the patrol. Failure to do so may result in the Coast Guard expelling the person or vessel from the area, issuing a citation for failure to comply, or both. The COTP Maryland—National Capital Region or PATCOM may terminate the event, or a participant's operations at any time the COTP Maryland—National Capital Region or PATCOM believes it necessary to do so for the protection of life or property.

(2) Except for participants and vessels already at berth, a person or vessel within the regulated area at the start of enforcement of this section must immediately depart the regulated area.

(3) A spectator must contact the PATCOM to request permission to either enter or pass through the regulated area. The PATCOM, and official patrol vessels enforcing this regulated area, can be contacted on marine band radio VHF-FM channel 16 (156.8 MHz) and channel 22A (157.1 MHz). If permission is granted, the

spectator may enter a designated Spectator Area or must pass directly through the regulated area as instructed by PATCOM. A vessel within the regulated area must operate at safe speed that minimizes wake. A spectator vessel must not loiter within the navigable channel while within the regulated area.

(4) A person or vessel that desires to transit, moor, or anchor within the regulated area must first obtain authorization from the COTP Maryland—National Capital Region or PATCOM. A person or vessel seeking such permission can contact the COTP Maryland—National Capital Region at telephone number 410-576-2693 or on Marine Band Radio, VHF-FM channel 16 (156.8 MHz) or the PATCOM on Marine Band Radio, VHF-FM channel 16 (156.8 MHz).

(5) Only participant vessels and official patrol vessels are allowed to enter the course area and milling area.

(6) Spectators are only allowed inside the regulated area if they remain within the designated spectator area. All spectator vessels must be anchored or operate at a No Wake Speed within a designated spectator area. Official patrol vessels will direct spectator vessels to the spectator area. Spectators must contact the Coast Guard Patrol Commander to request permission to pass through the regulated area. If permission is granted, spectators must pass directly through the regulated area at safe speed and without loitering.

(7) The Coast Guard will publish a notice in the Fifth Coast Guard District Local Notice to Mariners and issue a marine information broadcast on VHF-FM marine band radio announcing specific event dates and times.

(d) *Enforcement officials.* The Coast Guard may be assisted with marine event patrol and enforcement of the regulated area by other Federal, State, and local agencies.

(e) *Enforcement periods.* This section will be enforced from 8 a.m. to 6 p.m. on October 5, 2019, and, from 8 a.m. to 6 p.m. on October 6, 2019.

Dated: March 12, 2019.

Joseph B. Loring,

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

[FR Doc. 2019-04955 Filed 3-15-19; 8:45 am]

BILLING CODE 9110-04-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[EPA-HQ-OAR-2018-0775; FRL-9991-05-OAR]

RIN 2060-AU34

Public Hearing for Modifications To Fuel Regulations To Provide Flexibility for E15; Modifications to RFS RIN Market Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Announcement of public hearing.

SUMMARY: The EPA is announcing a public hearing to be held in Ypsilanti, MI on March 29, 2019 for the proposed rule "Modifications to Fuel Regulations to Provide Flexibility for E15; Modifications to RFS RIN Market Regulations." This proposed rule will be published separately in the **Federal Register**. The pre-publication version of this proposal can be found at <https://www.epa.gov/renewable-fuel-standard-program/notice-proposed-rulemaking-modifications-fuel-regulations-provide>. In the separate notice of proposed rulemaking, EPA has proposed regulatory changes to allow gasoline blended with up to 15 percent ethanol to take advantage of the 1-psi Reid Vapor Pressure waiver that currently applies to E10 during the summer months. EPA is also proposing an interpretive rulemaking which defines gasoline blended with up to 15 percent ethanol as "substantially similar" to the fuel used to certify Tier 3 motor vehicles. Finally, EPA is proposing regulatory changes to modify certain elements of the Renewable Fuel Standard compliance system, in order to improve renewable identification number market functioning and prevent market manipulation.

DATES: The public hearing will be held on March 29, 2019 at the location noted below under **ADDRESSES**. The hearing will begin at 9:00 a.m. and end when all parties present who wish to speak have had an opportunity to do so. Parties wishing to testify at the hearing should notify the contact person listed under **FOR FURTHER INFORMATION CONTACT** by March 26, 2019. Additional information regarding the hearing appears below under **SUPPLEMENTARY INFORMATION**.

ADDRESSES: The hearing will be held at the following location: Ann Arbor Marriott Ypsilanti at Eagle Crest, 1275 S Huron St., Ypsilanti, MI 48197 (phone number 734-487-2000). A complete set of documents related to the proposal

will be available for public inspection through the Federal eRulemaking Portal: <http://www.regulations.gov>, Docket ID No. EPA-HQ-OAR-2018-0775.

Documents can also be viewed at the EPA Docket Center, located at 1301 Constitution Avenue NW, Room 3334, Washington, DC between 8:30 a.m. and 4:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Julia MacAllister, Office of Transportation and Air Quality, Assessment and Standards Division, Environmental Protection Agency, 2000 Traverwood Drive, Ann Arbor, MI 48105; telephone number: (734) 214-4131; Fax number: (734) 214-4816; Email address: RFS-Hearing@epa.gov.

SUPPLEMENTARY INFORMATION: The proposal for which EPA is holding the public hearing will be published separately in the **Federal Register**. The pre-publication version can be found at <https://www.epa.gov/renewable-fuel-standard-program/notice-proposed-rulemaking-modifications-fuel-regulations-provide>.

Public Hearing: The public hearing will provide interested parties the opportunity to present data, views, or arguments concerning the proposal (which can be found at <https://www.epa.gov/renewable-fuel-standard-program/notice-proposed-rulemaking-modifications-fuel-regulations-provide>). The EPA may ask clarifying questions during the oral presentations but will not respond to the presentations at that time. Written statements and supporting information submitted during the comment period will be considered with the same weight as any oral comments and supporting information presented at the public hearing. Written comments must be received by the last day of the comment period, as specified in the notice of proposed rulemaking.

How can I get copies of this document, the proposed rule, and other related information?

The EPA has established a docket for this action under Docket ID No. EPA-HQ-OAR-2018-0775. The EPA has also developed a website at the address given above. Please refer to the notice of proposed rulemaking for detailed information on accessing information related to the proposal.

Dated: March 12, 2019.

William Wehrum,

Assistant Administrator, Office of Air and Radiation.

[FR Doc. 2019-05034 Filed 3-15-19; 8:45 am]

BILLING CODE 5650-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 174 and 180

[EPA-HQ-OPP-2019-0041; FRL-9989-90]

Receipt of Several Pesticide Petitions Filed for Residues of Pesticide Chemicals in or on Various Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of filing of petitions and request for comment.

SUMMARY: This document announces the Agency's receipt of several initial filings of pesticide petitions requesting the establishment or modification of regulations for residues of pesticide chemicals in or on various commodities.

DATES: Comments must be received on or before April 17, 2019.

ADDRESSES: Submit your comments, identified by the docket identification (ID) number and the pesticide petition number (PP) of interest as shown in the body of this document, by one of the following methods:

- **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

- **Mail:** OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001.

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

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

FOR FURTHER INFORMATION CONTACT:

Michael Goodis, Registration Division (7505P), main telephone number: (703) 305-7090, email address:

RDfRNotices@epa.gov; or Robert McNally, Biopesticides and Pollution Prevention Division (7511P), main telephone number: (703) 305-7090, email address: BPPDFRNotices@epa.gov. The mailing address for each contact person is: Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001. As part of the mailing address, include the contact person's name, division, and mail code.

The division to contact is listed at the end of each pesticide petition summary.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

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

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

If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT** for the division listed at the end of the pesticide petition summary of interest.

B. What should I consider as I prepare my comments for EPA?

1. **Submitting CBI.** Do not submit this information to EPA through [regulations.gov](http://www.regulations.gov) or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. **Tips for preparing your comments.** When preparing and submitting your comments, see the commenting tips at <http://www.epa.gov/dockets/comments.html>.

3. **Environmental justice.** EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low-income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice

issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticides discussed in this document, compared to the general population.

II. What action is the Agency taking?

EPA is announcing its receipt of several pesticide petitions filed under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, requesting the establishment or modification of regulations in 40 CFR part 174 or part 180 for residues of pesticide chemicals in or on various food commodities. The Agency is taking public comment on the requests before responding to the petitioners. EPA is not proposing any particular action at this time. EPA has determined that the pesticide petitions described in this document contain the data or information prescribed in FFDCA section 408(d)(2), 21 U.S.C. 346a(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the pesticide petitions. After considering the public comments, EPA intends to evaluate whether and what action may be warranted. Additional data may be needed before EPA can make a final determination on these pesticide petitions.

Pursuant to 40 CFR 180.7(f), a summary of each of the petitions that are the subject of this document, prepared by the petitioner, is included in a docket EPA has created for each rulemaking. The docket for each of the petitions is available at <http://www.regulations.gov>.

As specified in FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), EPA is publishing notice of the petitions so that the public has an opportunity to comment on these requests for the establishment or modification of regulations for residues of pesticides in or on food commodities. Further information on the petitions may be obtained through the petition summaries referenced in this unit.

A. Amended Tolerances for Non-Inerts

PP 8F8659. (EPA-HQ-OPP-2018-0260). Monsanto Company, 1300 I St. NW, Suite 450 East, Washington, DC 20052, requests to amend the tolerance in 40 CFR part 180 for residues of the herbicide dicamba in or on corn, grain at 0.1 parts per million (ppm); corn, stover at 20 ppm; and corn, forage at 6 ppm. The gas chromatography/electron

capture detector (GC/ECD) is used to measure and evaluate the chemical dicamba. *Contact:* RD.

B. New Tolerance Exemptions From Inerts (Except PIPS)

PP IN-11260. (EPA-HQ-OPP-2018-0845). BASF Corporation, 26 Davis Drive, Research Triangle Park, NC 27709, requests to establish an exemption from the requirement of a tolerance in 40 CFR part 180.960 for residues of formaldehyde, reaction products with melamine (CAS Reg. No. 94645-56-4); 1,3,5-Triazine-2,4,6-triamine, polymer with formaldehyde (CAS Reg. No. 9003-08-1); Formaldehyde, reaction products with melamine and methanol (CAS Reg. No. 94645-53-1); and 1,3,5-Triazine-2,4,6-triamine, polymer with formaldehyde, methylated (CAS Reg. No. 68002-20-0) collectively identified as "Melamine Formaldehyde Polycondensate Resin" when used as a pesticide inert ingredient in pesticide formulations. The petitioner believes no analytical method is needed because it is not required for an exemption from the requirement of a tolerance. *Contact:* RD.

C. Notice of Filing—New Tolerance Exemptions for PIPS

PP IN-11257. (EPA-HQ-OPP-2018-0403). Hangzhou Ruifeng Biosciences Co., Ltd., 1500 Wenyi Rd., Building 1, Room 103, Hangzhou, China (c/o GA Bannon Consulting LLC, 13 Blue Flag Court, Dardenne Prairie, MO 63368), requests to establish an exemption from the requirement of a tolerance in 40 CFR part 174 for residues of the plant-incorporated protectant (PIP) inert ingredient *Deinococcus radiodurans* 5-enolpyruvylshikimate-3-phosphate synthase (EPSPS) protein in or on food and feed commodities of all plants. The petitioner believes no analytical method is needed because an exemption from the requirement of a tolerance is being sought. *Contact:* BPPD.

D. Notice of Filing—New Tolerances for Non-Inerts

1. *PP 8E8671.* EPA-HQ-OPP-2018-0206. Bayer CropScience LP2, T.W. Alexander Dr., Research Triangle Park, NC 27709, requests to establish a tolerance in 40 CFR part 180 for residues of the fungicide, trifloxystrobin, in or on tea, dried at 5 ppm. The gas chromatography method with nitrogen phosphorus detection (GC/NPD) is used to measure and evaluate the chemical trifloxystrobin and the free form of its acid metabolite CGA-321113. *Contact:* RD.

2. *PP 7F8612.* EPA-HQ-OPP-2018-0002. BASF Corporation, 26 Davis

Drive, P.O. Box 13528, Research Triangle Park, North Carolina 27709-3528, requests to establish tolerance in 40 CFR part 180 for residues of the fungicide mefentrifluconazole (BAS 750 F); 2-[4-(4-chlorophenoxy)-2-(trifluoromethyl)phenyl]-1-(1H-1,2,4-triazole-1-yl)propan-2-ol] in or on the following raw agricultural commodities: Almond, hulls at 4 ppm; barley, hay at 15 ppm; barley, straw at 30 ppm; cattle, fat at 0.3 ppm; cattle, kidney at 0.2 ppm; cattle, liver at 0.5 ppm; cattle, meat at 0.09 ppm; cattle, muscle at 0.04 ppm; cereal grains crop group 15, except wheat and corn at 3 ppm; cherry subgroup 12-12A at 4 ppm; citrus, oil at 30 ppm; corn, aspirated grain fractions at 0.3 ppm; corn, field, grain at 0.01 ppm; corn, pop, grain at 0.01 ppm; corn, sweet, forage at 6 ppm; corn, sweet, grain at 0.02 ppm; foliage of legume vegetables, except soybean, crop subgroup 7A at 20 ppm; forages of cereal grains, crop group 16 at 4 ppm; goat, fat at 0.3 ppm; goat, kidney at 0.2 ppm; goat, liver at 0.5 ppm; goat, meat at 0.09 ppm; goat, muscle at 0.04 ppm; grape, raisin at 4 ppm; grain, cereal, forage, fodder, and straw, group 16, stover at 9 ppm; grapefruit subgroup 10-10C at 1 ppm; horse, fat at 0.3 ppm; horse, kidney at 0.2 ppm; horse, liver at 0.5 ppm; horse, meat at 0.09 ppm; horse, muscle at 0.04 ppm; legume vegetables (succulent or dried) crop group 6, except lentil at 0.1 ppm; lemon/lime subgroup 10-10B at 2 ppm; lentil, dry at 2 ppm; milk at 0.03 ppm; orange subgroup 10-10A at 1 ppm; peach subgroup 12-12B at 2 ppm; peanut at 0.01 ppm; peanut, hay at 30 ppm; plum prune, fresh at 4 ppm; plum subgroup 12-12C at 2 ppm; pome fruit crop group 11-10 at 1.5 ppm; poultry, eggs at 0.01 ppm; poultry, fat at 0.01 ppm; poultry, liver at 0.01 ppm; poultry, meat at 0.01 ppm; poultry, muscle at 0.01 ppm; poultry, skin at 0.01 ppm; rapeseed subgroup 20A at 1 ppm; rice, straw at 9 ppm; sheep, fat at 0.3 ppm; sheep, kidney at 0.2 ppm; sheep, liver at 0.5 ppm; sheep, meat at 0.09 ppm; sheep, muscle at 0.04 ppm; small fruit vine climbing, except fuzzy kiwifruit subgroup 13-07F at 1.5 ppm; soybean, aspirated grain fractions at 5 ppm; soybean, forage at 4 ppm; soybean, hay at 15 ppm; soybean, seed at 0.3 ppm; sugar beet at 0.6 ppm; sugar beet, top at 9 ppm; swine, fat at 0.01 ppm; swine, liver at 0.01 ppm; swine, meat at 0.01 ppm; swine, skin at 0.01 ppm; tree nut crop group 14-12 at 0.06 ppm; tuberous and corm vegetables subgroup 1C at 0.02 ppm; wheat, aspirated grain fractions at 20 ppm; wheat, grain at 0.4 ppm; wheat, hay at 8 ppm; and wheat,

straw at 30 ppm. The independently validated method (L0295/01, based on the QuEChERS method) was used for analyzing residues of BAS 750 F with appropriate sensitivity and selectivity in all crops and processed commodities. Two independently validated methods (L0272/01 and L0309/01) have been submitted for analyzing residues of BAS 750 F and its metabolite M750F022 (and conjugates) in animal commodities with appropriate sensitivity and selectivity, to measure and evaluate the chemical mefenflufenazole. *Contact:* RD.

3. *PP 7F8634.* EPA-HQ-OPP-2018-0038. Valent U.S.A. LLC, 1600 Riviera Avenue, Suite 200, Walnut Creek, CA 94596, requests to establish a tolerance in 40 CFR part 180 for residues of the fungicide inpyrfluxam, S-2399, in or on apple at 0.01 ppm; apple, wet pomace at 0.03 ppm; beet, sugar, dried pulp at 0.05 ppm; beet, sugar, molasses at 0.03 ppm; beet, sugar, roots at 0.01 ppm; corn, field, forage at 0.02 ppm; corn, field, grain at 0.01 ppm; corn, field, stover at 0.02 ppm; corn, pop, grain at 0.01 ppm; corn, pop, stover at 0.02 ppm; corn, sweet, kernel plus cob with husks removed at 0.01 ppm; peanut at 0.01 ppm; peanut, hay at 2.0 ppm, rice, grain at 0.01 ppm; rice, bran at 0.02 ppm; rice, hulls at 0.05 ppm; soybean, seed at 0.01 ppm. The HPLC-MS/MS method is used to measure and evaluate the chemical inpyrfluxam. *Contact:* RD.

4. *PP 7F8647.* EPA-HQ-OPP-2018-0677. ISK Biosciences Corporation, 7470 Auburn Road, Suite A, Concord, Ohio 44077, requests to establish a tolerance in 40 CFR part 180 for residues of the fungicide pyriofenone, (5-chloro-2-methoxy-4-methyl-3-pyridinyl)(2,3,4-trimethoxy-6-methylphenyl)methanone, in or on fruiting vegetable crop group 8-10 at 0.30 ppm. The liquid chromatography-MS/MS is used to measure and evaluate the chemical pyriofenone. *Contact:* RD.

5. *PP 8F8682.* EPA-HQ-OPP-2018-0579. McLaughlin Gormly King Company (MGK), 8810 10th Ave. N Golden Valley, MN 55427, requests to establish a tolerance in 40 CFR part 180 for residues of the insecticide, pyrethrin, in or on the raw commodity of bananas at 6 ppm. The liquid chromatography-mass spectrometry/mass spectrometry (LC/MS/MS) method is used to measure and evaluate the chemical pyrethrins I (PY I) and pyrethrins II (PY II) in various ratios. PY I and PY II consist of three esters each: Pyrethrin I, jasmolin I and cinerin I in PY I; and pyrethrin II, jasmolin II, and cinerin II in PY II. *Contact:* RD.

Authority: 21 U.S.C. 346a.

Dated: February 21, 2019.

Hamaad Syed,

Acting Director, Information Technology and Resources Management Division, Office of Pesticide Programs.

[FR Doc. 2019-04975 Filed 3-15-19; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 174 and 180

[EPA-HQ-OPP-2018-0577; FRL-9989-71]

Receipt of Several Pesticide Petitions Filed for Residues of Pesticide Chemicals in or on Various Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of filing of petitions and request for comment.

SUMMARY: This document announces the Agency's receipt of several initial filings of pesticide petitions requesting the establishment or modification of regulations for residues of pesticide chemicals in or on various commodities.

DATES: Comments must be received on or before April 17, 2019.

ADDRESSES: Submit your comments, identified by the docket identification (ID) number and the pesticide petition number (PP) of interest as shown in the body of this document, by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001.

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

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

FOR FURTHER INFORMATION CONTACT: Michael Goodis, Registration Division (7505P), main telephone number: (703) 305-7090, email address: RDfRNotices@epa.gov; or Robert McNally, Biopesticides and Pollution Prevention Division (7511P), main

telephone number: (703) 305-7090, email address: BPPDFRNotices@epa.gov. The mailing address for each contact person is: Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001. As part of the mailing address, include the contact person's name, division, and mail code. The division to contact is listed at the end of each pesticide petition summary.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

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

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

If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT** for the division listed at the end of the pesticide petition summary of interest.

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through [regulations.gov](http://www.regulations.gov) or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at <http://www.epa.gov/dockets/comments.html>.

3. *Environmental justice.* EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low-income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticides discussed in this document, compared to the general population.

II. What action is the Agency taking?

EPA is announcing its receipt of several pesticide petitions filed under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, requesting the establishment or modification of regulations in 40 CFR part 174 or part 180 for residues of pesticide chemicals in or on various food commodities. The Agency is taking public comment on the requests before responding to the petitioners. EPA is not proposing any particular action at this time. EPA has determined that the pesticide petitions described in this document contain the data or information prescribed in FFDCA section 408(d)(2), 21 U.S.C. 346a(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the pesticide petitions. After considering the public comments, EPA intends to evaluate whether and what action may be warranted. Additional data may be needed before EPA can make a final determination on these pesticide petitions.

Pursuant to 40 CFR 180.7(f), a summary of each of the petitions that are the subject of this document, prepared by the petitioner, is included in a docket EPA has created for each rulemaking. The docket for each of the petitions is available at <http://www.regulations.gov>.

As specified in FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), EPA is publishing notice of the petitions so that the public has an opportunity to comment on these requests for the establishment or modification of regulations for residues of pesticides in or on food commodities. Further information on the petitions may be obtained through the petition summaries referenced in this unit.

Amended Tolerances for Non-Inerts

1. PP 8E8703. (EPA-HQ-OPP-2018-0683). Interregional Research Project Number 4 (IR-4), 500 College Road East, Suite 201 W, Princeton, NJ 08540, requests, upon approval of the “New Tolerances” entry for PP 8E8703 listed 202F; elsewhere in this publication, to remove the existing tolerances in 40 CFR 180.378 for the combined residues of the insecticide *cis*- and *trans*-permethrin isomers [*cis*-(3-phenoxyphenyl)methyl 3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropane carboxylate] and [trans-(3-phenoxyphenyl)methyl 3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropane carboxylate] in/on the following agricultural commodities: Cherry, sweet at 4.0 parts per million (ppm); Cherry, tart at 4.0 ppm; Leaf petioles subgroup 4B at 5.0 ppm; Peach at 1.0 ppm; and Potato at 0.05 ppm. Contact: RD.

2. PP 8E8717. (EPA-HQ-OPP-2018-0783). IR-4, 500 College Road East, Suite 201 W, Princeton, NJ 08540, requests, upon approval of “New Tolerances” for PP 8E8717 listed elsewhere in this publication, to remove the existing tolerance in 40 CFR 180.513 for residues of the insecticide chlorfenapyr, including its metabolites and degradates, determined by measuring only chlorfenapyr, 4-bromo-2-(4-chlorophenyl)-1-(ethoxymethyl)-5-(trifluoromethyl)-1*H*-pyrrole-3-carbonitrile, in or on the agricultural commodities: Vegetable, fruiting, group 8–10 at 1.0 parts per million. Contact: RD.

3. PP 8F8719. (EPA-HQ-OPP-2018-0793). Makhteshim Agan of North America (d/b/a ADAMA, 3120 Highlands Blvd., Suite 100, Raleigh, NC 27604), requests to: (1) Amend the tolerance expression in 40 CFR 180.680 paragraphs (a) and (d) to read “Tolerances are established for residues of the nematocide fluensulfone, including its metabolites and degradates, in or on the commodities in the table below. Compliance with the tolerance levels specified in the following table below is to be determined by measuring only the sum of fluensulfone, 5-chloro-2-[(3,4,4-trifluoro-3-buten-1-yl)sulfonyl]thiazole and its metabolite, 3,4,4-trifluoro-but-3-ene-1-sulfonic acid, calculated as the stoichiometric equivalent of fluensulfone, in or on the commodity”; and, (2) amend the tolerances in 40 CFR 180.680 for residues of the nematocide, fluensulfone and its metabolite BSA expressed as fluensulfone equivalents, on the raw agricultural commodities as follows: Almond hulls at 5 parts per

million (ppm); Fruit, pome, group 11 at 0.4 ppm; Fruit, small vine climbing subgroup 13–07D at 0.8 ppm; Fruit, stone, group 12 at 0.1 ppm; Grain cereal, forage, fodder and straw, group 16 at 3 ppm; and, rotated wheat (inadvertent residues with 90-day PBI): Grain, cereal, group 15 at 0.05 ppm; Molasses at 0.3 ppm; and, rotated cereal grains (inadvertent residues with 10-month PBI): Nut, tree, group 14 at 0.04 ppm; Sugarcane at 0.05 ppm and Wheat grain (includes triticale) (Barley grain; Buckwheat grain; Oat grain; and Teosinte grain) at 0.1 ppm; Wheat bran (Barley bran) at 0.14 ppm; Wheat forage (Oat forage) at 6 ppm; Wheat germ at 0.10 ppm; Wheat hay (Barley hay and Oat hay) at 15 ppm; Wheat middlings at 0.10 ppm; Wheat shorts at 0.11 ppm; and, Wheat straw (Barley straw and Oat straw) at 6 ppm. The Liquid chromatography—Mass Spectrometry mass spectrometry (LC-MS/MS) methods are used to measure and evaluate the chemical fluensulfone plus its metabolite 3,4,4-trifluoro-but-3-ene-1-sulfonic acid (BSA) expressed as fluensulfone equivalents. Contact: RD.

New Tolerance Exemptions for Non-Inerts (Except PIPS)

1. PP 8F8688. (EPA-HQ-OPP-2018-0763). Central Coast Garden Products, 1354 Dayton St., Unit N, Salinas, CA 93901, requests to establish an exemption from the requirement of a tolerance in 40 CFR part 180 for residues of the fungicide and miticide sodium lauryl sulfate in or on all raw agricultural commodities when applied in accordance with good agricultural practices. The petitioner believes no analytical method is needed because the proposed exemption would extend to all food crops with no effective limit. The petitioner further points to the high degradability and minimal toxicity of sodium lauryl sulfate. Contact: BPPD.

New Tolerances for Non-Inerts

1. PP 8E8701. (EPA-HQ-OPP-2018-0644). Interregional Research Project Number 4 (IR-4), IR-4 Project Headquarters, Rutgers, The State University of New Jersey, 500 College Road East, Suite 201 W, Princeton, NJ 08450, requests to establish tolerances in 40 CFR 180.593, for residues of the insecticide etoxazole [2-(2,6-difluorophenyl)-4-[4-(1,1-dimethylethyl)-2-ethoxyphenyl]-4,5-dihydrooxazole] in or on the agricultural commodities Beet, sugar, roots at 0.02 parts per million (ppm); Beet, sugar, dried pulp at 0.04 ppm; and in/on the following plant leaves at 1.0 ppm: Alexanders leaves; Alocasia, leaves; American Solomon’s seal,

leaves; Angelica, leaves; Angular Solomon's seal, leaves; Arracacha, leaves; Artichoke, Jerusalem, leaves; Astragalus, leaves; Banana, Abyssinian, leaves; Bayberry, leaves; Bean, Goa, leaves ppm; Beet, garden, leaves; Beet, sugar, leaves; Bellflower, Chinese, leaves; Blue ape, leaves; Blue vervain, leaves; Bupleurum, leaves; Burdock, edible, leaves; Butchers broom, leaves; Canna, edible leaves; Carolina redroot, leaves; Carrot, leaves; Cassava, bitter, leaves; Cassava, sweet, leaves; Celeriac, leaves; Chayote, leaves; Chervil, turnip-rooted, leaves; Chicory, leaves; Chinese asparagus, leaves; Chinese-potato, leaves; Chinese skullcap, leaves; Cloverroot, leaves; Coltsfoot, leaves; Common skullcap, leaves; Cumin, black, leaves; Cup plant, leaves; Dahurian angelica, leaves; Dong quai, leaves; Echinacea, leaves; Elephant foot yam, leaves; Fodder beet, leaves; Fodder radish, leaves; Fodder turnip, leaves; Forskohlii, leaves; Fo-ti, leaves; Hydrangea, leaves; Indigo, leaves; Japanese knotweed, leaves; Leren, leaves; King's crown, leaves; Maca, leaves; Madeira vine, leaves; Marshmallow, leaves; Mashua, leaves; Mauka, leaves; Mustard, tuberous rooted Chinese, leaves; Nettle, leaves; Niu Xi, leaves; Oca, leaves; Parsley, turnip rooted, leaves; Parsnip, leaves; Polygala, leaves; Rampion, leaves; Rauwolfia, leaves; Rehmannia, leaves; Rutabaga, leaves; Salsify, leaves; Salsify, black, leaves; Salsify, Spanish, leaves; Schisandra, leaves; Shatavari, leaves; Siberian polygala, leaves; Siberian Solomon's seal, leaves; Silverweed, leaves; Skirret, leaves; Solomon's seal, leaves; Sweet gale, leaves; Sweet potato, leaves; Tanier leaves; Taro, leaves; Ti palm, leaves; Turkish rhubarb, leaves; Tyfon, leaves; Ullucu, leaves; Umckaloaba, leaves; Valerian, leaves; Velvet plant, leaves; Vetiver, roots; White peony, leaves; Yacon, leaves; Yam, Chinese, leaves; Yam, cushcush, leaves; Yam, greater, leaves; Yam, lesser, leaves; Yam, true, leaves; Yam, potato, leaves; Yam, white, leaves; Yam, yellow, leaves; Yellow dock, leaves. Adequate enforcement methodology, Gas Chromatograph/Mass Selective Detector (GC/MSD) is available for detecting and measuring levels of etoxazole to enforce proposed tolerances. Gas chromatography with a nitrogen-phosphorous detector (GC/NPD) enforcement methodology is also available to enforce proposed livestock commodity tolerances. Contact: RD.

2. PP 8E8703. (EPA-HQ-OPP-2018-0683). IR-4, Rutgers, The State University of New Jersey, 500 College Road East, Suite 201W, Princeton, NJ

08540, requests to establish tolerances in 40 CFR 180.378 for the combined residues of the insecticide cis- and trans-permethrin isomers [cis-(3-phenoxyphenyl)methyl 3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropane carboxylate] and [trans-(3-phenoxyphenyl)methyl 3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropane carboxylate] in or on the agricultural commodities Celutce at 5.0 parts per million (ppm); Cherry subgroup 12-12A at 4.0 ppm; Fennel, Florence at 5.0 ppm; Leaf petiole vegetable subgroup 22B at 5.0 ppm; Peach, subgroup 12-12B at 2.0 ppm; Tea, plucked leaves at 20 ppm; Vegetable, tuberous and corm, subgroup 1C at 0.05 ppm; and a regional tolerance in/on Fruit, small, vine climbing, except fuzzy kiwifruit, subgroup 13-07F at 2.0 ppm. Adequate analytical methods, gas chromatography (GC) electron capture detection (GC/ECD), are available for enforcing tolerances of permethrin in plants with a limit of quantitation (LOQ) of 0.05 ppm, which will allow monitoring of permethrin residues in crops at the levels proposed for the tolerances. Contact: RD.

3. PP 8E8717. (EPA-HQ-OPP-2018-0783). IR-4, 500 College Road East, Suite 201 W, Princeton, NJ 08540, requests to establish tolerances for residues of the insecticide chlorfenapyr, including its metabolites and degradates, determined by measuring only chlorfenapyr, 4-bromo-2-(4-chlorophenyl)-1-(ethoxymethyl)-5-(trifluoromethyl)-1H-pyrrole-3-carbonitrile, in or on the following agricultural commodities: Basil, fresh leaves at 80 parts per million (ppm); Chive, fresh leaves at 20 ppm; Cucumber at 0.5 ppm; and to increase the established tolerance for Vegetable, fruiting, group 8-10 from 1.0 ppm to 2.0 ppm. Adequate analytical methods are available to enforce the tolerance expression. Method M2686 which uses gas chromatography/electron capture detection (GC/ECD) as a primary quantitation method and gas chromatography/Mass Spectrometry (GC/MS) as its confirmatory method is used to determine chlorfenapyr residues in various fruits (such as Stone Fruit, Pome Fruits, Strawberries, and Grapes). Method M2686 (with minor modification if needed) could be used the analysis of chlorfenapyr residues in basil and chives as well as for small fruited tomato and cucumber. Another method, designated as M2427, which uses GC/ECD is suitable for tolerance enforcement purposes for basil and chives. Both methods have a limit of

quantitation (LOQ) of 0.05 ppm. Contact: RD.

Authority: 21 U.S.C. 346a.

Dated: February 27, 2019.

Delores Barber,

Director, Information Technology and Resources Management Division, Office of Pesticide Programs.

[FR Doc. 2019-04971 Filed 3-15-19; 8:45 am]

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AGENCY FOR INTERNATIONAL DEVELOPMENT

48 CFR Chapter 7

RIN 0412-AA93

Agency for International Development Acquisition Regulation (AIDAR): Revisions to the Incentive Awards Program for Personal Services Contractors

AGENCY: U.S. Agency for International Development.

ACTION: Proposed rule.

SUMMARY: The U.S. Agency for International Development (USAID) proposes to amend its regulation regarding incentive awards for personal services contracts with individuals. In 2004 and 2015, the USAID Administrator approved policies to authorize funding for incentive and recognition awards for personal services contracts with individuals under the Agency's authorities for such contracts. This proposed rule will allow USAID to recognize the work of an individual personal services contractor (PSC) for extraordinary performance of services under their contract by providing them with monetary or non-monetary incentive awards.

DATES: Submit comments on or before May 17, 2019.

ADDRESSES: Submit comments, identified by title of the Proposed Action and Regulation Identifier Number (RIN), by any of the following methods:

1. Through the Federal eRulemaking Portal at <http://www.regulations.gov> by following the instructions for submitting comments.

2. By Mail addressed to Marcelle J. Wijesinghe, USAID, Bureau for Management, Office of Acquisition & Assistance, Policy Division, Room 867-J, SA-44, 1300 Pennsylvania Ave. NW, Washington, DC 20523-2052.

FOR FURTHER INFORMATION CONTACT: Richard Spencer, Telephone: 202-567-4781 or Email: rspencer@usaid.gov.

SUPPLEMENTARY INFORMATION:

A. Instructions

All comments must be in writing and submitted through one of the methods specified in the **ADDRESSES** section above. All submissions must include the title of the action and RIN for this rulemaking. Please include your name, title, organization, postal address, telephone number, and email address in the text of the message.

Please note that USAID recommends sending all comments to the Federal eRulemaking Portal because security screening precautions have slowed the delivery and dependability of surface mail to USAID in Washington, DC.

All comments will be made available at <http://www.regulations.gov> for public review without change, including any personal information provided. We recommend that you do not submit information that you consider Confidential Business Information (CBI) or any information that is otherwise protected from disclosure by statute.

USAID will only address substantive comments on the rule. USAID may not consider comments that are insubstantial or outside the scope of the proposed rule.

B. Request for Comments

USAID requests comments on its proposed rule to revise the Agency's Acquisition Regulations (AIDAR), appendices D and J to allow an individual personal services contractor to be eligible for monetary and non-monetary awards for extraordinary performance as described below.

Background

USAID awards PSCs with individuals based on multiple authorities: (1) Section 636(a)(3) of the Foreign Assistance Act of 1961, as amended (FAA, 22 U.S.C. 2396), for personal services abroad; (2) annual appropriations for Foreign Operations for a maximum number of PSCs in the U.S. (e.g., Sec. 7057(g), Division K, Pub. L. 114–113 for fiscal year 2016); or (3) program-specific provisions of the FAA, the Food for Peace Act, or an appropriations act that authorize use of a broad range of implementation authorities toward those program purposes “notwithstanding any other provision of law” (e.g., FAA Section 491, 22 U.S.C. 2292, which authorizes international assistance “to alleviate human suffering caused by natural and manmade disasters . . .”).

Over the last 27 years, USAID has awarded personal services contracts to individuals as necessary for the Agency to carry out its mission in the U.S. and overseas.

As of September 2015, of USAID's total workforce, approximately 8 percent were U.S. PSCs, and 47 percent were cooperating country, or third country, national (CCN or TCN) PSCs. The Agency's overseas local staff are CCNPSCs, with the exception of a very few remaining Foreign Service National (FSN) direct-hire employees. Because the Agency depends on PSCs as part of its workforce for its operations, USAID seeks to recognize and motivate excellence in contract performance.

Because PSCs are not authorized to participate in programs administered by the Office of Personnel Management (OPM), in May 2004, then Administrator Andrew Natsios used the Agency's discretionary authority to establish a separate awards program for PSCs, distinct from the Agency's awards program authorized by OPM for the Agency's direct-hire employees (see 5 U.S.C. 4501 *et seq.* regarding incentive awards programs for “superior accomplishment” by employees within the definition of 5 U.S.C. 2105; and 5 CFR part 451). The Administrator approved a deviation from the AIDAR appendix D to expand the PSC non-monetary awards program to include limited monetary awards such as “On The Spot” or Special Act cash; and Time-Off awards. The revised PSC monetary awards program was implemented under USAID Acquisition and Assistance Policy Directive (AAPD 04–15) issued on October 15, 2004, which authorized USPSCs, and certain TCNPSCs on an exceptional basis, to be eligible for these three types of monetary incentive awards under USAID Mission, Bureau or Independent Office (M/B/IO) programs.

In March 2015, USAID's Special Awards Committee (SAC) conducted a review of the Agency's Awards program for its direct-hire employees. Following that review, on December 22, 2015, Acting Agency Administrator Alfonso Lenhardt approved a deviation to further expand the Agency's PSC Awards program to include additional types of monetary and non-monetary awards similar to those provided to USAID's direct-hire employees.

In order to implement the awards programs for PSCs as approved by the Agency in 2004 and 2015, this revision to AIDAR appendices D and J is being proposed, and will replace the deviations approved in 2004 and 2015.

Discussion

This proposed rule will amend the AIDAR to establish a separate monetary and non-monetary awards program to recognize and reward individual personal services contractors for their

contributions to the accomplishment of USAID's mission, goals, and objectives.

Based on Statute—Section 636(a)(3) of the Foreign Assistance Act of 1961, as amended; and by regulation—appendices D and J of the AIDAR, PSCs are not allowed to participate in any award program administered by OPM. Recognition of individual accomplishments by USPSCs was limited to non-monetary awards and certificates of appreciation. However, based on deviations and policy directives signed by the Head of Agency in 2004 and 2015, USAID established an interim separate awards program to make PSCs eligible to receive awards similar to the Agency's direct-hire employee incentive awards program.

The Agency's incentive awards program for direct-hire employees is implemented in USAID's Automated Directives System (ADS) chapter 491. The new PSC awards program proposed in this AIDAR revision will be incorporated into appendices D and J and will be implemented as described in USAID's PSC policy in ADS chapter 309. Where appropriate, this incentive awards program will closely parallel the program for U.S. direct-hire employees. Any award payments will be made from the same source of funding used for the individual's contract, and in all cases separately from the pool of funds maintained for USAID direct-hire employee awards. Recognizing that USPSCs receive an annual pay comparability adjustment similar to direct-hires, as well as an annual within-grade salary increase for work evaluated at the “satisfactory performance” level, the policy requires that these awards be for performance or a special act that goes above and beyond the minimum satisfactory performance required under the contract. USAID proposes to recognize and encourage exceptional performance by PSCs when they perform special acts or create innovations that contribute to efficiency, economy, or other improvements in government operations, in the same way USAID recognizes superior performance by its direct-hire employees. The proportion of PSCs receiving cash awards at a M/B/IO or at the Agency level, and the total amount of the awards, will be consistent with, and will not exceed, the existing Agency policy for awards to U.S. direct-hire employees, as set by the Agency's Senior Management.

The Agency's internal policies in ADS 309 will describe the criteria for each award, any cash or other limitations associated with each award, how the PSC's supervisors or others may nominate individuals, and how such

nominations will be reviewed and recommended for approval. Nominations for the annual Agency level awards will generally follow the same procedures and use the same documentation as currently required for USAID's U.S. direct-hire employees.

Regulatory Basis

Since the Agency depends so much on PSCs and their contributions to the Agency, and as the statute, Section 636(a)(3) of the Foreign Assistance Act of 1961, as amended, and the regulation, appendix D of the Agency for International Development Acquisition Regulations (AIDAR), do not permit PSCs to participate in OPM-administered programs, the Administrator has decided to use the Agency's discretionary authority to establish a separate monetary awards program for its USPSCs. This incentive awards program is distinct and separate from the Agency's direct-hire employee incentive awards program found in ADS 491. Additionally, this AIDAR revision will establish an incentive awards program that is different from FAR Subpart 16.4 Incentive Contracts, as the Agency's PSC contracts are with individuals and profit or fee are not provided under these contracts. The details of this award program are available in a Mandatory Reference to ADS 309, 309mab—"Incentive Awards Program for Personal Services Contracts with Individuals", accessible on the Agency website.

C. Impact Assessment

(1) Regulatory Planning and Review. Under E.O. 12866, OIRA has designated the proposed rule "significant" and therefore subject to the requirements of the E.O. and subject to review by the Office of Management and Budget (OMB). OIRA has determined that this Rule is not an "economically significant regulatory action" under Section 3(f)(1) of E.O. 12866. This proposed rule is not a major rule under 5 U.S.C. 804.

This rule codifies the Agency's deviations to date from the current rule in the CFR. The costs calculated in this section are based on upper end estimates to illustrate the potential impact of these revisions from the baseline costs of the current rule. Under this proposed rule, incentive awards at the M/B/IO level paid to USPSCs, and TCNPSCs with exceptions to be paid on the GS-scale (*i.e.*, "excepted TCNPSCs") for fiscal years 2014–2015 averaged \$86,158 per year based on historical data provided by the Bureau for Management, Office of the Chief Financial Officer (M/CFO). The administrative and processing costs for

these awards averaged \$47,865. Therefore, the total estimated cost for M/B/IO awards is estimated at \$134,023 per fiscal year.

For the newly proposed "Agency-level" incentive awards issued from USAID headquarters, the total estimated amount that could be paid to all selected PSCs (USN, TCN and CCN) is \$160,000 per fiscal year, assuming nominations are approved for every award. This figure is based on an estimated payout for all of 31 possible cash award amounts listed in ADS 309mab.

As the Agency level headquarters awards program is new and there is no historical data for such awards paid to PSCs, USAID used historical data for awards to U.S. direct hires, as provided by USAID's Office of Human Capital and Talent Management (HCTM) for estimating the administrative and processing costs. On that basis administrative and processing costs are estimated at \$118,525 per fiscal year comprised of labor for nominations, selection panels and award processing, plus ceremony event costs for a volume PSC awards equivalent to those given to direct hires. Also, as PSCs are eligible for fewer categories of Agency-level awards than are U.S. direct hires, the costs were pro-rated accordingly. Therefore, the total estimated cost for Agency-level awards from headquarters is \$278,525 per fiscal year.

Based on the above, the M/B/IO awards and Agency level award issues at headquarters are estimated together estimated to cost \$412,547 per fiscal year.

Note that for incentive awards at the Agency Mission level for cooperating country national (CCN) and third country national (TCN) PSCs, AIDAR appendix J authorizes such awards in accordance with the local compensation plan at each USAID Mission overseas through the "Joint Special Embassy" awards program. While this proposed rule revises the title of the Mission incentive awards program using current terminology, this rule does not otherwise affect the authority for this long-established awards program for CCN and TCN PSCs. Therefore there are no increased cost implications for this revision that updates the title of the program under AIDAR appendix J.

Overall, USAID's proposed awards program will impact approximately 5,200 individual PSCs based on USAID's staffing numbers for fiscal year 2015 (*i.e.*, 775 USPSCs and over 4,470 cooperating country and third country national PSCs). The costs to implement this revision are justified as the Agency depends on PSCs as part of its

workforce. Given that USAID PSCs are an important and flexible supplement for the Agency's dynamic operations, this revision provides the Agency the ability to recognize and motivate excellence in contractor performance. Additionally, since these incentives were previously approved at the highest levels of Agency management, the costs to implement these revisions were deemed necessary as a business decision about how to best promote performance excellence by USAID PSCs.

As a regulatory matter, the cost of the rule making process to incorporate these revisions into the regulation is also justified. The AIDAR appendices include all the compensation and benefits available under personal services contracts. Therefore, the Agency needs these revisions in order to keep the regulation consistent, complete and transparent to industry, other government agencies and the general public.

(2) Regulatory Flexibility Act. The rule will not have an impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* Therefore, an Initial Regulatory Flexibility Analysis has not been performed.

(3) Paperwork Reduction Act. The proposed rule does not establish a new collection of information that requires 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 Chapter 7, Appendices D and J

Government procurement.

For the reasons discussed in the preamble, USAID proposes to amend 48 CFR chapter 7 as follows:

CHAPTER 7—AGENCY FOR INTERNATIONAL DEVELOPMENT

■ 1. Appendix D is amended by revising Section 4 paragraph (f) and adding a parenthetical authority citation at the end of the Appendix to read as follows:

Appendix D to Chapter 7—Direct USAID Contracts With a U.S. Citizen or a U.S. Resident Alien for Personal Services Abroad

* * * * *

4. Policy

* * * * *

(f) *Incentive awards.* U.S. Personal Services Contractors are not eligible to participate in, or be funded under, the OPM-administered incentive awards program for USAID direct-hire employees in accordance with section 636(a) of the Foreign Assistance Act of 1961, as amended. U.S. Personal Services

Contractors are eligible to receive certain monetary and non-monetary incentive awards as authorized under this section. All nominations for incentive awards must be approved by a U.S. direct hire employee, who is either the contractor's supervisor or is at the next higher level within the M/B/IO. The list of incentive awards and detailed eligibility, nomination and approval processes are specified in internal Agency policies in ADS chapter 309, available on the USAID website. These awards will be funded from the authorizations used to fund the specific contract.

(Authority: Sec. 621, Pub. L. 87–195, 75 Stat. 445, (22 U.S.C. 2381), as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673; and 3 CFR, 1979 Comp., p. 435.)

■ 2. Appendix J is amended as follows:

- a. In section 4:
 - i. By revising paragraph (c)(1);
 - ii. In paragraph (c)(2)(i), by removing “TCN or CCN” and adding in its place “CCN or TCN” and removing the reference “4c(2)(ii)” and adding in its place the reference “4(c)(2)(ii)”;
 - iii. In paragraph (c)(2)(ii) introductory text, by removing the words “FSNs which includes CCNs and TCNs” and adding in their place “CCNs and TCNs” and revising the second sentence.
 - iv. In paragraph (c)(2)(ii)(A), by removing the words “foreign national employee” and adding in its place the words “CCN or TCN personal services contractor”;
 - v. In paragraph (c)(2)(ii)(B), by revising the first sentence;
 - vi. In paragraph (c)(2)(iii), by removing the words “compensation plan for each” and adding in its place the words “local compensation plan for each Mission”;
 - vii. By revising paragraphs (c)(2)(v) and (vii) and (c)(3); and
 - viii. In paragraph (c)(4), by removing “CCN and TCN PSCs” and adding in its place “CCN and TCN personal services contractors” and removing the words “Contracting Officer” and adding in their place the words “contracting officer”.
- b. Under section 12, General Provisions for a Contract with a Cooperating Country National or with a Third Country National for Personal Services, revise item 19.
- c. By adding a parenthetical authority citation at the end of the appendix.

The revisions and addition read as follows:

Appendix J—Direct USAID Contracts With a Cooperating Country National and With a Third Country National for Personal Services Abroad

* * * * *

4. Policy

* * * * *

(c) * * *

(1) *General.* For the purpose of any law administered by the U.S. Office of Personnel Management, USAID personal services contractors are not to be regarded as employees of the U.S. Government, are not included under any retirement or pension program of the U.S. Government, and are not eligible for the Incentive Awards Program covered by Uniform State/USAID regulations. Each USAID Mission is expected to participate in an interagency Mission incentive awards program. Additionally, CCN and TCN personal services contractors are eligible to receive certain USAID monetary and non-monetary incentive awards as authorized under this section. See paragraph (3) of this section for incentive awards.

(2) * * *

(ii) * * * The plan is each post's official system of position classification and pay, consisting of the local salary schedule, which includes salary rates, statements authorizing fringe benefit payments, and other pertinent facets of compensation for CCNs and TCNs. * * *

* * * * *

(B) Section 4 of appendix D of this chapter, entitled Policy, subsections (c) “Withholdings and Fringe Benefits”, (d) “Resident Hire U.S. Personal Services Contractors”, (e) “Determining Salary for Personal Services Contractors”, (g) “Annual Salary Increase”, (h) “Pay Comparability Adjustment”, and (i) “Subcontracting”. * * *

* * * * *

(v) CCN and TCN personal services contractors are eligible for allowances and differentials as provided under the post's local compensation plan.

* * * * *

(vii) CCNs and TCNs retired from the U.S. government may be awarded personal services contracts without any reduction in or offset against their U.S. Government annuity.

(3) *Incentive Awards.* (i) All CCN and TCN personal services contractors of the Foreign Affairs Community are eligible for an interagency Mission incentive awards

program. The Joint Country Awards Committee administers each post's (Embassy) awards program, including establishment of procedures for submission, review and approval of proposed awards.

(ii) CCN and TCN personal services contractors are also eligible to receive certain monetary and non-monetary USAID incentive awards. The list of incentive awards, eligibility, nomination and approval processes are specified in internal Agency policies in ADS chapter 309, available on the USAID website. These awards will be funded from the authorizations used to fund the PSC contract, and not from funds allocated for the OPM-administered awards program for USAID direct-hire employees.

(iii) Meritorious Step Increases for USAID CCN and TCN personal services contractors may be authorized provided the granting of such increases is the general practice locally.

* * * * *

12. General Provisions for a Contract With a Cooperating Country National or With a Third Country National for Personal Services

* * * * *

19. Incentive Awards

[For use in both CCN and TCN Contracts].

Incentive Awards (Date)

(a) Cooperating Country National (CCN) and Third Country National (TCN) personal services contractors of the Foreign Affairs Community are eligible for an interagency Mission incentive awards program. The program is administered by each post's (Embassy) Joint Country Awards Committee.

(b) CCN and TCN personal services contractors are also eligible to receive certain monetary and non-monetary USAID incentive awards in accordance with the AIDAR and internal USAID policies.

(c) Meritorious Step Increases. CCNs and TCN personal services contractors paid under the local compensation plan are eligible to receive meritorious step increases provided the granting of such increases is the general practice locally.

* * * * *

(Authority: Sec. 621, Pub. L. 87–195, 75 Stat. 445, (22 U.S.C. 2381), as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673; and 3 CFR, 1979 Comp., p. 435.)

Dated: February 14, 2019.

Mark A. Walther,

Acting Chief Acquisition Officer.

[FR Doc. 2019–03840 Filed 3–15–19; 8:45 am]

BILLING CODE 6116–01–P

Notices

Federal Register

Vol. 84, No. 52

Monday, March 18, 2019

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-LPS-18-0005]

Soybean Promotion, Research, and Information Program: Opportunity To Request a Referendum

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice.

SUMMARY: The Agricultural Marketing Service (AMS) announces that soybean producers may request a referendum to determine if producers want the Secretary to conduct a referendum on the Soybean Promotion and Research Order (Order), as authorized under the Soybean Promotion, Research, and Consumer Information Act (Act). Participation in the Request for Referendum is voluntary. Producers should participate only if they wish to request a referendum on the program.

If at least 10 percent (not in excess of one-fifth of which may be producers in any one State) of the 515,008 eligible producers, as determined by the U.S. Department of Agriculture (USDA), participate in the Request for Referendum, a referendum will be held within 1 year from that determination. If results of the Request for Referendum indicate that a referendum is not supported, a referendum would not be conducted. The results of the Request for Referendum will be published in a Notice in the **Federal Register**.

DATES: Soybean producers may request a referendum during a 4-week period beginning on May 6, 2019, and ending May 31, 2019.

To be eligible to participate in the Request for Referendum, producers must certify that they or the producer entity they are authorized to represent paid an assessment at any time between January 1, 2017, and December 31, 2018.

Form LS-51-1, Soybean Promotion and Research Order Request for

Referendum, may be obtained by mail, fax, or in person from the Farm Service Agency (FSA) county offices from May 6, 2019, to May 31, 2019. Form LS-51-1 may also be obtained via the internet at <https://www.ams.usda.gov/rules-regulations/research-promotion/soybean> during the same time period. Completed forms and supporting documentation must be returned to the appropriate county FSA office by fax or in person no later than close of business May 31, 2019, or if returned by mail, must be postmarked by midnight May 31, 2019, and received in the county FSA office by close of business on June 6, 2019.

FOR FURTHER INFORMATION CONTACT:

Kenneth R. Payne, Director, Research and Promotion Division, Livestock and Poultry Program, AMS, USDA, Room 2610-S, STOP 0251, 1400 Independence Avenue SW, Washington, DC 20250-0251; telephone (202) 720-1118; fax (202) 720-1125; or email to Kenneth.Payne@usda.gov; or Rick Pinkston, Field Operations Staff, FSA, USDA, at telephone (202) 720-1857; fax (202) 720-1096; or email at Rick.Pinkston@wdc.usda.gov.

SUPPLEMENTARY INFORMATION: In accordance with the Act (7 U.S.C. 6301-6311), this Notice announces the dates when the Request for Referendum will be conducted and the place where soybean producers may request a referendum on the Order. The Act provides that the Secretary, 5 years after the conduct of the initial referendum and every 5 years thereafter, shall give soybean producers an opportunity to request a referendum on the Order. The initial referendum was held in February 1994, and the results were announced on April 1, 1994. During the initial referendum, 85,606 valid ballots were cast, with 46,060 (53.8 percent) in favor of continuing the Order and 39,546 votes (46.2 percent) against continuing the Order. The Act required approval by a simple majority for the Order to continue.

The most recent opportunity for producers to request a referendum on the Order was in May 2014. During that period, 324 producers completed valid requests—short of the 56,999 required to trigger a referendum. On July 10, 2014, USDA announced the results of the Request for Referendum and that the requisite number of producers had not

requested that a referendum be conducted.

Eligibility

To be eligible to participate, soybean producers must certify that they or the entity they are authorized to represent paid an assessment under the Soybean Checkoff Program at sometime between January 1, 2017, and December 31, 2018. They must complete and submit Form LS-51-1, Soybean Promotion and Research Order Request for Referendum, in person, by mail, or by fax between May 6, 2019, and May 31, 2019. Individual producers and other producer entities would request a referendum at the county FSA office where FSA maintains and processes the producer's, corporation's, or other entity's administrative farm records. For the producer, corporation, or other entity not participating in FSA programs, the opportunity to request a referendum would be provided at the county FSA office serving the county where the producer, corporation, or other entity owns or rents land. Form LS-51-1 may also be obtained via the internet at <https://www.ams.usda.gov/rules-regulations/research-promotion/soybean>. If obtained by the internet, Form LS-51-1 must be completed and returned by mail, fax, or in person with the supporting documentation to the county FSA office where FSA maintains and process the producer's, corporation's, or other entity's administrative farm records.

In accordance with the Paperwork Reduction Act of 1995 [44 U.S.C. 3501 *et seq.*], the information collection requirements made in connection with the Request for Referendum have been approved by the Office of Management and Budget (OMB) and assigned OMB control number 0581-0093.

Authority: 7 U.S.C. 6301-6311.

Dated: March 12, 2019.

Bruce Summers,
Administrator.

[FR Doc. 2019-04925 Filed 3-15-19; 8:45 am]

BILLING CODE 3410-02-P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

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 17, 2019 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: Child Nutrition Program Operations Study II (CN–OPS II): Year 4.
OMB Control Number: 0584–0607.

Summary of Collection: The objective of the Child Nutrition Program Operations Study II (CN–OPS–II): Year 4 is to collect timely data on policies, administrative, and operational issues on the Child Nutrition Programs. The study will help FNS obtain general descriptive data on the child nutrition programs' characteristics needed to help FNS respond to questions concerning those programs; obtain data related to program administration for designing and revising program regulations, managing resources, and reporting requirements; and obtain data related to program operations to help FNS develop and provide training and technical assistance to the State Agencies and

School Food Authorities (SFAs) responsible for administering these programs. The Year 4 data collection will provide up-to-date information about Child Nutrition Program operations. This study is also necessary to implement Section 28(a)(1) of the Richard B. Russell National School Lunch Act which directs FNS to carry out annual national performance assessments of the National School Lunch and the School Breakfast Programs.

Need and Use of the Information: This study will survey State Child Nutrition and School Food Authority directors. FNS will use the data collected from the Year 4 study to describe and assess program operations, provide input for legislation and regulations on the Child Nutrition programs, and to develop pertinent technical assistance and training for program staff at the State and SFA levels. This data will also allow FNS to understand how recent and proposed legislation, regulations, policies, and initiatives change Child Nutrition program operations. The data collected from these studies will allow FNS to obtain a full national picture of program operations.

Description of Respondents: State, Local, or Tribal Government.

Number of Respondents: 2,248.

Frequency of Responses: Reporting: Annually.

Total Burden Hours: 4,073.

Kimble Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2019–04935 Filed 3–15–19; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

March 12, 2019.

The Department of Agriculture will submit the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13 on or after the date of publication of this notice. 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 should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, Washington, DC; New Executive Office Building, 725 17th Street NW, Washington, DC 20503. Commenters 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.

Comments regarding these information collections are best assured of having their full effect if received by April 17, 2019. 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.

Agricultural Marketing Service

Title: Livestock Mandatory Reporting Act of 1999.

OMB Control Number: 0581–0186.

Summary of Collection: The Livestock Mandatory Reporting (LMR) Act of 1999 (Pub. L. 106–78; 7 U.S.C. 1635–1636h) mandates the reporting of information on prices and quantities of livestock and livestock products. The 1999 Act was established to provide timely, accurate, and reliable market information on the marketing of cattle, swine, lambs, and related products. Under this program, certain livestock packers, livestock product processors and importers meeting certain criteria, including size as measured by annual slaughter are required to report market information to the Agricultural Marketing Service (AMS). On September 30, 2015, the Agriculture Reauthorizations Act of 2015 (2015 Reauthorization Act) reauthorized LMR for an additional five years, until September 30, 2020. The information is necessary for the proper performance of the functions of AMS. USDA's market news provides all market participants, including producers, with the information

necessary to make intelligent and informed marketing decisions.

Need and Use of the Information: The information collected and recordkeeping requirements will serve as the basis for livestock and livestock product market news reports utilized by the industry for marketing purposes. The reports are used by other

Government agencies to evaluate market conditions and calculate price levels. Economists at major agricultural colleges and universities use the reports to make short and long-term market projections. The information is reported up to three times daily and once weekly and is only available directly from those entities required to report under the Act.

Description of Respondents: Business or other for-profit.

Number of Respondents: 116.

Frequency of Responses: Reporting; Weekly; Other (Daily).

Total Burden Hours: 24,006.

Kimble Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2019-04936 Filed 3-15-19; 8:45 am]

BILLING CODE 3410-02-P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS-2019-0004]

Notice of Request for a New Information Collection: In-Home Food Safety Behaviors and Consumer Education: Web-Based Survey

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and Office of Management and Budget (OMB) regulations, the Food Safety and Inspection Service (FSIS) is announcing its intention to collect information in the form of an exploratory Web-based survey of consumers to evaluate food safety education and communication activities and to inform the development of food safety communication products.

DATES: Submit comments on or before May 17, 2019.

ADDRESSES: FSIS invites interested persons to submit comments on this **Federal Register** notice. Comments may be submitted by one of the following methods:

- **Federal eRulemaking Portal:** This website provides commenters the ability to type short comments directly into the

comment field on the web page or to 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, 1400 Independence Avenue SW, Mailstop 3758, Room 6065, Washington, DC 20250-3700.

- **Hand- or courier-delivered submittals:** Deliver to 1400 Independence Avenue SW, Room 6065, Washington, DC 20250-3700.

Instructions: All items submitted by mail or electronic mail must include the Agency name and docket number FSIS-2019-0004. 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>.

Docket: For access to background documents or comments received, call (202) 720-5627 to schedule a time to visit the FSIS Docket Room at 1400 Independence Avenue SW, Room 6065, Washington, DC 20250-3700.

FOR FURTHER INFORMATION CONTACT:

Gina Kouba, Office of Policy and Program Development, Food Safety and Inspection Service, USDA, 1400 Independence Avenue SW, Room 6065, South Building, Washington, DC 20250-3700; (202) 720-5627.

SUPPLEMENTARY INFORMATION:

Title: In-Home Food Safety Behaviors and Consumer Education: Web-based Survey.

Type of Request: New information collection.

Abstract: FSIS has been delegated the authority to exercise the functions of the Secretary (7 CFR 2.18, 2.53) as specified in the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601, *et seq.*), the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451, *et seq.*) and the Egg Products Inspection Act (EPIA) (21 U.S.C. 1031, *et seq.*). These statutes mandate that FSIS protect the public by verifying that meat, poultry, and egg products are safe, wholesome, unadulterated, and properly labeled and packaged.

FSIS's Office of Public Affairs and Consumer Education (OPACE) develops consumer education programs concerning the safe handling, preparation, and storage of meat, poultry, and processed egg products, so as to improve consumer food handling behaviors and minimize the incidence of foodborne illness. OPACE shares its food safety messages through The *Food Safe Families* campaign (a cooperative

effort of USDA, Food and Drug Administration [FDA], and Centers for Disease Control and Prevention [CDC]); social media; AskKaren (an online database of frequently asked food safety questions); the FSIS website; *FoodSafety.gov* (the cross-federal website operated by FSIS, FDA and CDC used to promote safe food handling to consumers); the Meat and Poultry Hotline; and various publications and events. These messages are focused on the four core food safety behaviors: Clean, separate, cook, and chill.

By testing planned and tailoring existing communication programs and materials, FSIS can help to ensure that it is effectively communicating with the public to improve consumer food safety practices. As part of ongoing activities by OPACE to develop and evaluate its public health education and communication activities, FSIS is requesting approval for a new information collection to conduct exploratory Web-based surveys of consumers. Findings from these surveys will provide information about how FSIS communication programs and materials affect consumer understanding of recommended safe food handling practices, as well as insight into how to effectively inform consumers about recommended practices. The findings will be used to enhance communication programs and materials to improve consumers' food safety behaviors and help prevent foodborne illness. Additionally, this research will provide useful information for tracking progress toward the goals outlined in the FSIS Fiscal Years 2017-2021 Strategic Plan.

FSIS has contracted with RTI International to conduct two iterations of a web-based survey. The first survey will be conducted in Fiscal Year (FY) 2019 and the second survey will be conducted in FY 2021. Each iteration of the exploratory survey will collect information from 2,400 randomly selected English-speaking adult members of a probability-based Web-enabled research panel maintained by a subcontractor.

The survey is designed to be representative of the U.S. adult population. This representation is achieved through address-based sampling (ABS), where every U.S. adult with an address (including those who do not have a landline phone number) has an equal probability of being selected for participation on the panel. A random sample of individuals will be selected from the panel for participation in the survey. A pilot will be conducted before the survey to test the survey instrument and procedures.

The first iteration of the survey will collect information on consumer use of and response to the Meat and Poultry Hotline, consumer awareness of The Food Safe Families campaign, and consumer behaviors for preparing raw meat and poultry products. The topics for the second iteration of the survey have not been determined and will ultimately inform OPAE's activities to develop and evaluate its public health

education and communication activities.

Estimate of Burden: The total estimated burden for each iteration of the survey is 978.2 hours, for a total burden of 1,956.4 hours. To achieve 80 completed surveys during the pretest, 146 randomly selected panel members will be invited via email to take the survey. To achieve 2,400 completed surveys during the full-scale study,

4,400 randomly selected panel members will be invited via email to take the survey. Therefore, a total of 4,546 (146 + 4,400) will be invited to participate in both the pretest and the full-scale study for each iteration of the survey. The invitation email for the pretest and the full-scale survey is expected to take 2 minutes (0.03333 hour). Each survey is expected to take 20 minutes (0.33333 hours) to complete.

ESTIMATED ANNUAL REPORTING BURDEN FOR THE FY 2019 WEB-BASED CONSUMER SURVEY

Study component	Estimated number of respondents	Annual frequency per response	Total annual responses	Hours per response	Total hours
Pretest Invitation	146	1	146	0.03333 (2 min.)	4.87
Pretest ¹	80	1	80	0.33333 (20 min.) ...	26.67
Survey Invitation	4,400	1	4,400	0.03333 (2 min.)	146.67
Survey ¹	2,400	1	2,400	0.33333 (20 min.) ...	800
Total	4,546	.....	.....	.....	978.2

¹A subset of the people who received the invitation.

ESTIMATED ANNUAL REPORTING BURDEN FOR THE FY 2021 WEB-BASED CONSUMER SURVEY

Study component	Estimated number of respondents	Annual frequency per response	Total annual responses	Hours per response	Total hours
Pretest Invitation	146	1	146	0.03333 (2 min.)	4.87
Pretest ¹	80	1	80	0.33333 (20 min.) ...	26.67
Survey Invitation	4,400	1	4,400	0.03333 (2 min.)	146.67
Survey ¹	2,400	1	2,400	0.33333 (20 min.) ...	800
Total	4,546	.....	.....	.....	978.2

¹A subset of the people who received the invitation.

Respondents: Consumers.

Estimated Number of Respondents: 9,092.

Estimated Number of Annual Responses per Respondent: 1.

Estimated Total Burden on Respondents: 1,956.4 hours.

Copies of this information collection assessment can be obtained from Gina Kouba, Office of Policy and Program Development, Food Safety and Inspection Service, USDA, 1400 Independence Avenue SW, Room 6065, South Building, Washington, DC 20250-3700; (202) 720-5627.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of FSIS's functions, including whether the information will have practical utility; (b) the accuracy of FSIS's estimate of the burden of the proposed collection of information, including the validity of the method and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information, including through the use

of appropriate automated, electronic, mechanical, or other technological collection techniques, or other forms of information technology. Comments may be sent to both FSIS, at the addresses provided above, and the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20253.

Responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

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>.

FSIS also will also announce and provide a link to it through the FSIS *Constituent Update*, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public

meetings, and other types of information that could affect or would be of interest to our constituents and stakeholders. The *Constituent Update* is available on the FSIS web page. Through the web page, FSIS can provide information to a much broader, more diverse audience. In addition, FSIS offers an email subscription service which provides automatic and customized access to selected food safety news and information. This service is available at: <http://www.fsis.usda.gov/subscribe>. Options range from recalls to export information, regulations, directives, and notices. Customers can add or delete subscriptions themselves and have the option to password protect their accounts.

USDA Non-Discrimination Statement

No agency, officer, or employee of the USDA shall, 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).

Done in Washington, DC.

Carmen M. Rottenberg,
Administrator.

[FR Doc. 2019-04994 Filed 3-15-19; 8:45 am]

BILLING CODE 3410-DM-P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS-2019-0002]

Notice of Request To Renew an Approved Information Collection: Importation and Transportation of Meat, Poultry, and Egg Products

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and Office of Management and Budget (OMB) regulations, the Food Safety and Inspection Service (FSIS) is announcing its intention to renew the approved information collection regarding the importation and transportation of meat, poultry, and egg products. The approval for this information collection will expire on June 30, 2019. FSIS is making no changes to the approved collection.

DATES: Submit comments on or before May 17, 2019.

ADDRESSES: FSIS invites interested persons to submit comments on this **Federal Register** notice. Comments may be submitted by one of the following methods:

- **Federal eRulemaking Portal:** This website provides commenters the ability to type short comments directly into the comment field on the web page or to 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, 1400 Independence Avenue SW, Mailstop 3758, Room 6065, Washington, DC 20250-3700.

- **Hand- or courier-delivered submittals:** Deliver to 1400 Independence Avenue SW, Room 6065, Washington, DC 20250-3700.

Instructions: All items submitted by mail or electronic mail must include the Agency name and docket number FSIS-2019-0002. 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>.

Docket: For access to background documents or comments received, call (202) 720-5627 to schedule a time to visit the FSIS Docket Room at 1400 Independence Avenue SW, Room 6065, Washington, DC 20250-3700.

FOR FURTHER INFORMATION CONTACT:

Gina Kouba, Office of Policy and Program Development, Food Safety and Inspection Service, USDA, 1400 Independence Avenue SW, Room 6065, South Building, Washington, DC 20250-3700; (202) 720-5627.

SUPPLEMENTARY INFORMATION:

Title: Importation and Transportation of Meat, Poultry, and Egg Products.

OMB Control Number: 0583-0094.

Expiration Date: 06/30/2019.

Type of Request: Renewal of an approved information collection.

Abstract: FSIS has been delegated the authority to exercise the functions of the Secretary (7 CFR 2.18, 2.53) as specified in the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601, *et seq.*), the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451, *et seq.*) and the Egg Products Inspection Act (EPIA) (21 U.S.C. 1031, *et seq.*). These statutes mandate that FSIS protect the public by verifying that meat, poultry, and egg products are safe, wholesome, unadulterated, and properly labeled and packaged.

FSIS is requesting renewal of the information collection regarding the importation and transportation of meat, poultry, and egg products. The approval for this information collection will expire on June 30, 2019. FSIS is making no changes to the approved collection.

This information collection includes (1) foreign inspection certificates from foreign countries required by FSIS to export meat, poultry, and egg products to the United States (9 CFR 327.2 and 381.196); (2) documentation required by FSIS from official import establishments to pre-stamp imported product with the inspection legend before reinspection is complete (9 CFR 327.10(d) and 381.204(f)); and (3) documentation required from official establishments to transport meat and poultry shipments under seal (FSIS Form 7350-1, Request and Notice of Shipment of Sealed Meat and Poultry) (9 CFR 325.5).

(1) Foreign countries that wish to export meat, poultry, and egg products to the United States must establish eligibility to do so by putting in place inspection systems that are "equivalent to" the U.S. inspection system (9 CFR 327.2 and 381.196) and by annually certifying that they continue to do so. Meat, poultry, and egg products intended for importation into the U.S. must be accompanied by an inspection certificate signed by an official of the foreign government responsible for the inspection and certification of the product (9 CFR 327.4, 381.197, and 590.915).

(2) Import establishments that wish to pre-stamp imported product with the inspection legend before FSIS inspection is complete must submit a letter to FSIS that explains and requests approval for the establishment's pre-stamping procedure (9 CFR 327.10(d) and 381.204(f)).

(3) Unless accounted for in an establishment's HACCP plan, meat and poultry products that do not bear the mark of inspection and that are to be shipped from one official establishment to another for further processing must be transported under USDA seal to prevent such unmarked product from entering into commerce (9 CFR 325.5). To track product shipped under seal, FSIS requires the shipping establishment to complete FSIS Form 7350-1, which identifies the type, amount, and weight of the product.

FSIS has made the following estimates based on an information collection assessment.

Estimate of Burden: FSIS estimates that it takes each respondent an average of 29.6 hours per year to complete the foreign inspection certificates, pre-stamp documentation, and documentation required to transport meat and poultry shipments.

Respondents: Importers, establishments, foreign governments.

Estimated Number of Respondents: 136.

Estimated Number of Annual Responses per Respondent: 650.

Estimated Total Annual Burden on Respondents: 4,026 hours.

Copies of this information collection assessment can be obtained from Gina Kouba, Office of Policy and Program Development, Food Safety and Inspection Service, USDA, 1400 Independence Avenue SW, Room 6065, South Building, Washington, DC 20250–3700; (202) 720–5627.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of FSIS's functions, including whether the information will have practical utility; (b) the accuracy of FSIS's estimate of the burden of the proposed collection of information, including the validity of the method and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques, or other forms of information technology. Comments may be sent to both FSIS, at the addresses provided above, and the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20253.

Responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

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>.

FSIS will also announce and provide a link to it through the FSIS *Constituent Update*, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to our constituents and stakeholders. The *Constituent Update* is available on the FSIS web page. Through the web page, FSIS can provide information to a much broader, more diverse audience. In addition, FSIS offers an email subscription service which provides automatic and customized access to selected food safety news and information. This service is available at: <http://www.fsis.usda.gov/subscribe>. Options range from recalls to export

information, regulations, directives, and notices. Customers can add or delete subscriptions themselves and have the option to password protect their accounts.

USDA Non-Discrimination Statement

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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).

Done in Washington, DC.

Carmen M. Rottenberg,
Administrator.

[FR Doc. 2019–04996 Filed 3–15–19; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Comment Request—State Administrative Expense Funds

AGENCY: Food and Nutrition Service (FNS), USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on this information collection. This collection is a revision of a currently

approved collection for State administrative expense funds expended in the operation of the Child Nutrition Programs administered under the Child Nutrition Act of 1966.

DATES: Written comments must be received on or before May 17, 2019.

ADDRESSES: Comments may be sent to Jessica Saracino, Chief, Operational Support Branch, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Room 632, Alexandria, VA 22302–1594. Comments will also be accepted through the Federal eRulemaking Portal. Go to <http://www.regulations.gov>, and follow the online instructions for submitting comments electronically. All responses to this notice will be summarized and included in the request for Office of Management and Budget (OMB) approval, and will become a matter of public record.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this information collection should be directed to Jessica Saracino at (703) 605–3223.

SUPPLEMENTARY INFORMATION:

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 of the proposed collection of information, including the validity of the methodology and assumptions that were used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Title: 7 CFR part 235—State Administrative Expense Funds.

Form Number: FNS–525.

OMB Number: 0584–0067.

Expiration Date: August 31, 2019.

Type of Request: Revision of a currently approved collection.

Abstract: Section 7 of the Child Nutrition Act of 1966 (Pub. L. 89–642), 42 U.S.C. 1776, authorizes the Department to provide Federal funds to State agencies (SAs) for administering the Child Nutrition Programs (7 CFR parts 210, 215, 220, 226 and 250). State Administrative Expense (SAE) Funds, 7 CFR part 235, sets forth procedures and recordkeeping requirements for use by SAs in reporting and maintaining records of their need and use of SAE

funds. A summary of the reporting and recordkeeping burden associated with this revision is presented in the table below. For this revision, a correction was made to remove the burden associated with form FNS-74, Federal-State Agreement, since it is not an annually signed agreement resulting in a decrease of 6 recordkeeping hours and 19 reporting hours resulting for a net decrease of 25 total burden hours. This renewal contains burden associated with form FNS-525, State Administrative Expense Funds Reallocation Report. FNS plans to incorporate this form into the Food

Program Reporting System (FPRS) to accommodate electronic reporting of the data. Once the renewals of OMB# 0584-0067 7 CFR part 235-State Administrative Expense Funds and OMB# 0584-0594 Food Program Reporting System (FPRS) (which expires September 30, 2019) have been approved by OMB, FNS plans to transfer FNS-525 and its associated burden from OMB# 0584-0067 into OMB# 0584-0594.

Affected Public: State Agencies.

Estimated Number of Respondents: 84.

Estimated Number of Responses per Respondent: 39.512.

Estimated Total Annual Responses: 3,319.

Estimated Hours per Response: 1.990.

Estimated Total Hours Annual Reporting Burden: 602.

Estimated Total Hours Annual Recordkeeping Burden: 6,004.

Estimated Total Annual Burden: 6,606.

Current OMB Inventory: 6,631.

Difference (requested with this renewal): - 25.

Refer to the following table for estimated annual burden for each type of respondent:

Affected public	Estimated number of respondents	Number of responses per respondent	Estimated total annual responses	Estimated hours per response	Estimated total annual burden
Reporting					
State Agencies	84	2.024	170	3.541	602
Total Estimated Reporting Burden	84	.....	170	.....	602
Recordkeeping					
State Agencies	84	37.488	3,149	1.907	6,004
Total Estimated Recordkeeping Burden	84	.....	3,149	.....	6,004
Total of Reporting and Recordkeeping					
Reporting	84	2.024	170	3.541	602
Recordkeeping	84	37.488	3,149	1.907	6,004
Total	84	.....	3,319	.....	6,606

Dated: March 7, 2019.

Brandon Lipps,

Administrator, Food and Nutrition Service.

[FR Doc. 2019-04928 Filed 3-15-19; 8:45 am]

BILLING CODE 3410-30-P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Florida Advisory Committee

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Florida Advisory Committee (Committee) will hold a meeting on Tuesday, March 19, 2019, at 3:00 p.m. (EST) for the purpose of discussing voting rights concerns in the state.

DATES: The meeting will be held on Tuesday, March 19, 2019, at 3:00 p.m. (EST).

Public Call Information: Dial: 855-719-5012, Conference ID: 5411168.

FOR FURTHER INFORMATION CONTACT:

Jeff Hinton, DFO, at jhinton@usccr.gov.

SUPPLEMENTARY INFORMATION: Members of the public can listen to the discussion. This meeting is available to the public through the toll-free call-in number dial: 877-260-1479, Conference ID: 5411168. An open comment period will be provided to allow members of the public to make a statement as time allows. The conference call operator will ask callers to identify themselves, the organization they are affiliated with (if any), and an email address prior to placing callers into the conference room. Callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1-800-877-

8339 and providing the Service with the conference call number and conference ID number.

Written comments may be mailed to the Regional Program Unit Office, U.S. Commission on Civil Rights, 230 S. Dearborn St., Suite 2120, Chicago, IL 60604. They may also be faxed to the Commission at (312) 353-8324 or may be emailed to the Regional Director, Jeff Hinton at jhinton@usccr.gov. Records of the meeting will be available via www.facadatabase.gov under the Commission on Civil Rights, Florida Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission's website, <http://www.usccr.gov>, or may contact the Regional Program Unit at the above email or street address.

Agenda

Welcome and Introductions

Dr. Daniel A. Smith, Political Science Department at the University of Florida

Discussion: Voting Right Issues in Florida

Public Comment

Adjournment

Exceptional Circumstance: Pursuant to 41 CFR 102–3.150, the notice for this meeting is given less than 15 calendar days prior to the meeting because of the exceptional circumstances of the federal government shutdown.

Dated: March 13, 2019.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2019–05022 Filed 3–15–19; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Rhode Island Advisory Committee

AGENCY: Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA), that a meeting of the Rhode Island Advisory Committee to the Commission will convene at 12:00 p.m. (EDT) on Thursday, April 4, 2019, at Barrett and Singal, One Richmond Sq., Suite 165W, Main Conference Room, Providence, RI 02906. The purpose of the meeting is to discuss the Committee's next civil rights project.

DATES: Tuesday, April 4, 2019 (EDT). Time 12 p.m.

ADDRESSES: Barrett and Singal, One Richmond Sq., Suite 165W, Providence, RI 02906.

FOR FURTHER INFORMATION CONTACT: Evelyn Bohor at ero@usccr.gov, or 202–376–7533.

SUPPLEMENTARY INFORMATION: Persons who plan to attend the meeting and who require other accommodations, please contact Evelyn Bohor at ebohor@usccr.gov at least ten (10) working days before the scheduled date of the meeting.

Members of the public are invited to submit written comments; the comments must be received in the regional office by Saturday, May 4, 2019. Written comments may be mailed to the Eastern Regional Office, U.S. Commission on Civil Rights, 1331 Pennsylvania Avenue, Suite 1150, Washington, DC 20425, faxed to (202) 376–7548, or emailed to Evelyn Bohor at ero@usccr.gov. Persons who desire additional information may contact the Eastern Regional Office at (202) 376–7533.

The activities of this advisory committee, including records and

documents discussed during the meeting, will be available for public viewing, as they become available at: <https://www.facadatabase.gov/FACA/FACAPublicViewCommitteeDetails?id=a10t0000001gzm4AAA>. Records generated from this meeting may also be inspected and reproduced at the Eastern Regional Office, as they become available, both before and after the meeting. Persons interested in the work of this advisory committee are advised to go to the Commission's website, www.usccr.gov, or to contact the Eastern Regional Office at the above phone number, email or street address.

Agenda

Tuesday, April 4, 2019; 12:00 p.m. (EDT)

Update on USCCR/RO projects and activities
Discussion of Potential Civil Rights topics
Open Comment
Adjourn

Dated: March 12, 2019.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2019–04951 Filed 3–15–19; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Vermont Advisory Committee

AGENCY: Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA), that a meeting of the Vermont Advisory Committee to the Commission will convene by conference call at 11:00 a.m. (EDT) on Wednesday, March 20, 2019. The purpose of the meeting is to plan a community forum in Rutland and a briefing in Montpelier on disciplinary disparities in schools.

DATES: Wednesday, March 20, 2019, at 11:00 a.m. EDT.

ADDRESSES:

Public Call-In Information:

Conference call-in number: 1–877–260–1479 and conference call 7886261.

FOR FURTHER INFORMATION CONTACT:

Evelyn Bohor at ero@usccr.gov or by phone at 202–376–7533.

SUPPLEMENTARY INFORMATION: Interested members of the public may listen to the discussion by calling the following toll-free conference call-in number: 1–877–260–1479 and conference call 7886261.

Please be advised that before placing them into the conference call, the conference call operator will ask callers to provide their names, their organizational affiliations (if any), and email addresses (so that callers may be notified of future meetings). Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free conference call-in number.

Persons with hearing impairments may also follow the discussion by first calling the Federal Relay Service at 1–800–977–8339 and providing the operator with the toll-free conference call-in number: 1–877–260–1479 and conference call 7886261.

Members of the public are invited to make statements during the open comment period of the meeting or submit written comments. The comments must be received in the regional office approximately 30 days after each scheduled meeting. Written comments may be mailed to the Eastern Regional Office, U.S. Commission on Civil Rights, 1331 Pennsylvania Avenue, Suite 1150, Washington, DC 20425, faxed to (202) 376–7548, or emailed to Evelyn Bohor at ero@usccr.gov. Persons who desire additional information may contact the Eastern Regional Office at (202) 376–7533.

Records and documents discussed during the meeting will be available for public viewing as they become available at <https://www.facadatabase.gov/FACA/FACAPublicViewCommitteeDetails?id=a10t0000001gzmXAAQ>, click the “Meeting Details” and “Documents” links. Records generated from this meeting may also be inspected and reproduced at the Eastern Regional Office, as they become available, both before and after the meetings. Persons interested in the work of this advisory committee are advised to go to the Commission's website, www.usccr.gov, or to contact the Eastern Regional Office at the above phone numbers, email or street address.

Agenda

Wednesday, March 20, 2019 at 11:00 a.m. (EDT)

- Rollcall
- Discussion of Community Forum and Briefing in Vermont
- Next Steps
- Other Business
- Open Comment
- Adjourn

Exceptional Circumstance: Pursuant to 41 CFR 102–3.150, the notice for this meeting is given less than 15 calendar days prior to the meeting because of the exceptional circumstances of the federal government shutdown.

Dated: March 12, 2019.

David Mussatt,
Supervisory Chief, Regional Programs Unit.
[FR Doc. 2019–04953 Filed 3–15–19; 8:45 am]
BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Vermont Advisory Committee

AGENCY: Commission on Civil Rights.

ACTION: Announcement of briefing meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA), that a briefing meeting of the Vermont Advisory Committee to the Commission will convene at 5:30 p.m. (EDT) on Friday, March 29, 2019, in the Franklin Center, 1 Scale Avenue, #92, Rutland, VT 05701. The purpose of the briefing is to hear from community members about school discipline and civil rights in Vermont public schools.

DATES: Friday, March 29, 2019 (EDT). Time: 5:30 p.m. to 7:30 p.m.

ADDRESSES: Franklin Center, 1 Scale Avenue, #92, Rutland, VT 05701.

FOR FURTHER INFORMATION CONTACT: Evelyn Bohor at ebohor@usccr.gov, or 202–376–7533.

SUPPLEMENTARY INFORMATION: If other persons who plan to attend the meeting require other accommodations, please contact Evelyn Bohor at ebohor@usccr.gov at the Eastern Regional Office at least ten (10) working days before the scheduled date of the meeting.

Time will be set aside at the end of the briefing so that members of the public may address the Committee after the formal presentations have been completed. Persons interested in the issue are also invited to submit written comments; the comments must be received in the regional office by Monday, April 29, 2019. Written comments may be mailed to the Eastern Regional Office, U.S. Commission on Civil Rights, 1331 Pennsylvania Avenue, Suite 1150, Washington, DC 20425, faxed to (202) 376–7548, or emailed to Evelyn Bohor at ero@usccr.gov. Persons who desire additional information may contact the

Eastern Regional Office at (202) 376–7533.

Records and documents discussed during the meeting will be available for public viewing as they become available at <https://www.facadatabase.gov/FACA/FACAPublicViewCommitteeDetails?id=a10t0000001gzmXAAQ>, and clicking on the “Meeting Details” and “Documents” links. Records generated from this meeting may also be inspected and reproduced at the Eastern Regional Office, as they become available, both before and after the meeting. Persons interested in the work of this advisory committee are advised to go to the Commission’s website, www.usccr.gov, or to contact the Eastern Regional Office at the above phone number, email or street address.

Tentative Agenda

Friday, March 29, 2019 at 5:30 p.m.

- I. Welcome and Introductions
- II. Community Forum
- III. Adjournment

Dated: March 12, 2019.

David Mussatt,
Supervisory Chief, Regional Programs Unit.
[FR Doc. 2019–04952 Filed 3–15–19; 8:45 am]
BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meetings of the Nebraska Advisory Committee to the U.S. Commission on Civil Rights

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Nebraska Advisory Committee (Committee) will hold a series of public meetings, via conference call, in preparation to host a public hearing on civil rights and prison conditions for individuals with mental health conditions in the state. The Committee will discuss plans for the public hearing, in order to determine date, time, location, invited speakers, and discuss other necessary preparations. The Committee may also discuss other outreach strategies to collect additional testimony on the topic as a part of their current civil rights study.

DATES: The meetings will take place on:

- Monday April 1, 2019, 10–11:30 a.m. Central time
- Monday April 22, 2019, 10–11:30 a.m. Central time

- Monday May 6, 2019, 10–11 a.m. Central time

ADDRESSES:

Public Call Information: Dial: 877–260–1479, Conference ID: 1231689.

FOR FURTHER INFORMATION CONTACT:

Melissa Wojnaroski, DFO, at mwojnaroski@usccr.gov or (312) 353–8311.

SUPPLEMENTARY INFORMATION: Members of the public may listen to these discussions through the above call in number. An open comment period will be provided to allow members of the public to make a statement as time allows. The conference call operator will ask callers to identify themselves, the organization they are affiliated with (if any), and an email address prior to placing callers into the conference room. Callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are entitled to submit written comments; the comments must be received in the regional office within 30 days following the respective meeting. Written comments may be mailed to the Regional Programs Unit, U.S. Commission on Civil Rights, 230 S Dearborn, Suite 2120, Chicago, IL 60604. They may also be faxed to the Commission at (312) 353–8324, or emailed to Corrine Sanders at csanders@usccr.gov. Persons who desire additional information may contact the Regional Programs Unit at (312) 353–8311.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Unit Office, as they become available, both before and after the meeting. Records of the meeting will be available via www.facadatabase.gov under the Commission on Civil Rights, Nebraska Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission’s website, <http://www.usccr.gov>, or may contact the Regional Programs Unit at the above email or street address.

Agenda

Welcome and Roll Call

Civil Rights in Nebraska: Prisons and
Mental Health
Future Plans and Actions
Public Comment
Adjournment

Dated: March 12, 2019.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2019-04950 Filed 3-15-19; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Amended Order Denying Export Privileges

In the Matter of: Shavkat Abdullaev,
Inmate Number: 73083-279, Moshannon
Valley Correctional Institution, 555 Geo
Drive, Philipsburg, PA 16866.

On December 1, 2016, in the U.S. District Court for the Eastern District of New York, Shavkat Abdullaev ("Abdullaev") was convicted of violating the International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.* (2012)) ("IEEPA"). Specifically, Abdullaev was convicted of knowingly and intentionally exporting from the United States to Russia microelectronics without the required U.S. Department of Commerce licenses. Abdullaev was sentenced to 36 months in prison, two years of supervised release, and a \$400 assessment.

On December 31, 2018, I issued an Order denying Abdullaev's export privileges pursuant to Section 766.25 of the Export Administration Regulations ("EAR" or "Regulations"), for a period of five (5) years from the date of his conviction.¹ In addition, pursuant to

Section 750.8 of the Regulations, the Order also revoked any licenses issued by the Bureau of Industry and Security ("BIS") in which Abdullaev had an interest at the time of his conviction.

Prior to issuance of the December 31, 2018 Order, BIS, in accordance with Section 766.25 of the Regulations, provided Abdullaev notice of the proposed action and an opportunity to make a written submission opposing it. Unknown to BIS at the time, Abdullaev had mailed a submission, dated December 19, 2018, opposing the proposed action. Due apparently to the partial U.S. Government shutdown, BIS did not receive Abdullaev's submission until January 30, 2019. It is possible that, but for the shutdown, the submission may have been received by BIS in timely fashion.

In light of the foregoing, I have reviewed and considered Abdullaev's submission² and the record as a whole. Based upon review and consideration Abdullaev's submission and all available facts, in addition to my consultations with BIS's Office of Export Enforcement and its Director, I hereby affirm my decision denying Abdullaev's export privileges under the Regulations for a period of five years from the date of Abdullaev's conviction, and revoking any BIS-issued licenses in which Abdullaev had an interest at the time of his conviction. Thus, in sum, the terms of the December 31, 2018 Order are hereby affirmed, except as amended herein to reflect receipt and consideration of Abdullaev's written submission.

Accordingly, it is hereby *ordered*:

First, from the date of this Order until December 1, 2021, Shavkat Abdullaev with a last known address of Inmate Number: 73083-279, Moshannon Valley Correctional Institution, 555 Geo Drive, Philipsburg, PA 16866, and when acting for or on his behalf, his successors, assigns, employees, agents or representatives ("the Denied Person"), may not, directly or indirectly, participate in any way in any transaction involving any commodity,

through action undertaken pursuant to the authority provided under ECRA.

² In his one-page submission, Abdullaev ultimately contended that he did not intend to violate or circumvent the law and that his conviction was accordingly on appeal. His conviction has since been affirmed by the U.S. Court of Appeals for the Second Circuit, by summary order dated February 7, 2019. *United States v. Abdullaev*, No. 17-104-cr (L), 2019 U.S. App. LEXIS 3772 (2d Cir. Feb. 7, 2019) (summary order). In affirming his conviction, the Second Circuit held "that there was ample evidence from which the jury could conclude that Abdullaev acted with knowledge that his conduct was unlawful when he prepared fraudulent documentation for each charged export." *Id.* at *5-6.

software or technology (hereinafter collectively referred to as "item") exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or engaging in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or from any other activity subject to the Regulations.

Second, no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, after notice and opportunity for comment as provided in Section 766.23 of the Regulations, any other person, firm, corporation, or business organization related to Abdullaev by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order in order to prevent evasion of this Order.

Fourth, in accordance with Part 756 of the Regulations, Abdullaev may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of Part 756 of the Regulations.

Fifth, a copy of this Order shall be delivered to Abdullaev and shall be published in the **Federal Register**.

Sixth, this Order is effective immediately and shall remain in effect until December 1, 2021.

Issued on March 8, 2019.

Karen H. Nies-Vogel,

Director, Office of Exporter Services.

[FR Doc. 2019-04907 Filed 3-15-19; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Proposed Information Collection; Comment Request; BIS Program Evaluation

AGENCY: Bureau of Industry and Security, 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 proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: To ensure consideration, written comments must be submitted on or before May 17, 2019.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, 1401 Constitution Avenue NW, Room 6616, Washington, DC 20230 (or via the internet at PRAComments@doc.gov.)

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be

directed to Mark Crace, BIS ICB Liaison, (202) 482-8093 or at mark.crace@bis.doc.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

This collection of information is necessary to obtain feedback from seminar participants. This information helps BIS determine the effectiveness of its programs and identifies areas for improvement. The gathering of performance measures on the BIS seminar program is also essential in meeting the agency's responsibilities under the Government Performance and Results Act (GPRA).

II. Method of Collection

Paper and Electronic

III. Data

OMB Control Number: 0694-0125.

Form Number(s): 0694-0125.

Type of Review: Regular submission.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 3,000.

Estimated Time per Response: 10 minutes.

Estimated Total Annual Burden

Hours: 500 hours.

Estimated Total Annual Cost to Public: \$0.

Respondent's Obligation: Voluntary.

Legal Authority: Government Performance and Results Act (GPRA).

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.

Sheleen Dumas,

Departmental Lead PRA Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2019-04929 Filed 3-15-19; 8:45 am]

BILLING CODE 3510-07-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-557-816]

Certain Steel Nails From Malaysia: Final Results of Antidumping Duty Administrative Review; 2016-2017

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

SUMMARY: The Department of Commerce (Commerce) determines that Region International Co. Ltd. and Region System Sdn. Bhd. (collectively, Region) made sales of certain steel nails (steel nails) from Malaysia at less than normal value during the period of review (POR) July 1, 2016, through June 30, 2017, and that Inmax Sdn. Bhd. and Inmax Industries Sdn. Bhd. (collectively, Inmax) did not.

DATES: Applicable March 18, 2019.

FOR FURTHER INFORMATION CONTACT:

Edythe Artman (Inmax) or Madeline Heeren (Region), AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-3931 or (202) 482-9179, respectively.

SUPPLEMENTARY INFORMATION:

Background

On August 9, 2018, Commerce published the *Preliminary Results* of the 2016-2017 antidumping duty administrative review of steel nails from Malaysia.¹ Commerce conducted verification of Inmax's sales information from September 17 through 21, 2018. We invited interested parties to comment on the *Preliminary Results* and the verification report. For Region, we received case briefs from Mid Continent Steel & Wire, Inc. (the petitioner) and Region on December 14, 2018,² and a rebuttal brief from Region on December 21, 2018.³ For Inmax, we received a case brief from the petitioner

¹ See *Certain Steel Nails from Malaysia: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review; 2016-2017*, 83 FR 39422 (August 9, 2018) and accompanying Preliminary Decision Memorandum (*Preliminary Results*).

² See Letter, "Certain Steel Nails from Malaysia: Case Brief on Region," dated December 14, 2018 (Petitioner Case Brief—Region); see also Region's Letter, "Certain Steel Nails from Malaysia: Case Brief," dated December 12, 2018 (Region Case Brief).

³ Letter, "Steel Nails from Malaysia: Rebuttal Brief," dated December 21, 2018 (Region's Rebuttal Brief).

on February 14, 2019,⁴ and a rebuttal brief from Inmax on February 19, 2019.⁵ On February 26, 2019, the petitioner withdrew its request for a hearing.⁶

On November 8, 2018, Commerce postponed the deadline for the final results of this review until February 1, 2019.⁷ Commerce exercised its discretion to toll all deadlines affected by the partial federal government closure from December 22, 2018, through the resumption of operations on January 29, 2019. If the new deadline falls on a non-business day, in accordance with Commerce's practice, the deadline will become the next business day. Accordingly, the deadline for the final results of this review was revised to March 13, 2019.⁸

Scope of the Order

The merchandise covered by this order is steel nails, which are currently classifiable under HTSUS subheadings 7317.00.55.02, 7317.00.55.03, 7317.00.55.05, 7317.00.55.07, 7317.00.55.08, 7317.00.55.11, 7317.00.55.18, 7317.00.55.19,

7317.00.55.20, 7317.00.55.30, 7317.00.55.40, 7317.00.55.50, 7317.00.55.60, 7317.00.55.70, 7317.00.55.80, 7317.00.55.90, 7317.00.65.30, 7317.00.65.60 and 7317.00.75.00. Certain steel nails subject to these orders also may be classified under HTSUS subheadings 7907.00.60.00, 8206.00.00.00 or other HTSUS subheadings.

For a complete description of the scope of the order, *see* the Issues and Decision Memorandum.⁹

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this administrative review are addressed in the Issues and Decision Memorandum, which is hereby adopted by this notice. A list of the issues raised is attached to this notice as an Appendix. The Issues and Decision Memorandum is a public document and is on-file electronically *via* Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to

registered users at <https://access.trade.gov> and in the Central Records Unit (CRU), Room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/index.html>. The signed Issues and Decision Memorandum and the electronic version of the memorandum are identical in content.

Changes Since the Preliminary Results

Based on our review of the record and comments received from interested parties, we made certain revisions to the preliminary margin calculations for Inmax and Region. The Issues and Decision Memorandum contains a description of these revisions.¹⁰

Final Results of the Administrative Review

We have determined the following weighted-average dumping margins for the firms listed below for the period July 1, 2016, through June 30, 2017:¹¹

Producer/exporter	Weighted-average dumping margin (percent)
Inmax Sdn. Bhd. and Inmax Industries Sdn. Bhd	0.00
Region International Co. Ltd. and Region System Sdn. Bhd	1.46

Disclosure

We will disclose the calculations performed to parties in this proceeding within five days of the date of publication of this notice, in accordance with 19 CFR 351.224(b).

Assessment Rates

Pursuant to section 751(a)(2)(A) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.212(b)(1), Commerce will determine, and U.S. Customs and Border Protections (CBP) shall assess, antidumping duties on all appropriate

entries of subject merchandise in accordance with the final results of this review. We will calculate importer-specific assessment rates on the basis of the ratio of the total amount of antidumping duties calculated for each importer's examined sales and the total entered value of the sales in accordance with 19 CFR 351.212(b)(1).

For entries of subject merchandise during the POR produced by each respondent for which it did not know its merchandise was destined for the United States, we will instruct CBP to liquidate unreviewed entries at the all-

others rate if there is no rate for the intermediate company(ies) involved in the transaction.

We intend to issue liquidation instructions to CBP 15 days after publication of the final results of this review.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the notice of final results of administrative review for all shipments of subject merchandise entered, or withdrawn from warehouse,

⁴ See Letter, "Certain Steel Nails from Malaysia: Case Brief Inmax," dated February 14, 2018 (Petitioner Case Brief—Inmax).

⁵ See Letter, "Steel Nails from Malaysia—Rebuttal Brief," dated February 19, 2019 (Inmax Rebuttal Brief).

⁶ See Petitioner's Letter, "Certain Steel Nails from Malaysia: Withdrawal of Hearing Request," dated February 26, 2019.

⁷ See Memorandum, "Certain Steel Nails from Malaysia: Extension of Deadline for Final Results of Antidumping Duty Administrative Review; 2016–2017," dated November 8, 2018.

⁸ See Memorandum to the Record from Gary Taverman, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties

of the Assistant Secretary for Enforcement and Compliance, "Deadlines Affected by the Partial Shutdown of the Federal Government," dated January 28, 2019. All deadlines in this segment of the proceeding have been extended by 40 days.

⁹ See Memorandum, "Issues and Decision Memorandum for the Final Results of the Administrative Review of the Antidumping Duty Order on Certain Steel Nails from Malaysia; 2016–2017," dated March 13, 2019 (Issues and Decision Memorandum), 3–4.

¹⁰ See Issues and Decision Memorandum at 4–5; *see also* Memorandum, "Margin Calculation Memorandum for Inmax Sdn. Bhd. and Inmax Industries Sdn. Bhd. in the Final Results of the Administrative Review of the Antidumping Duty Order on Certain Steel Nails from Malaysia," dated concurrently with this notice; Memorandum,

"Analysis Memorandum for Region International Co., Ltd and Region System Sdn. Bhd. in the Preliminary Results of the 2016/2017 Administrative Review of the Antidumping Duty Order on Certain Steel Nails from Malaysia," dated concurrently with this notice.

¹¹ Commerce has determined to collapse, and treat as a single entity, affiliates Inmax Sdn. Bhd. and Inmax Industries Sdn. Bhd. (collectively, Inmax) and Region International Co. Ltd. and Region System Sdn. Bhd. (collectively, Region) for these final results of review. For a discussion of this analysis, *see* Memorandum, "Decision Memorandum for Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review: Certain Steel Nails from Malaysia; 2016–2017, dated August 3, 2018, 4–6.

for consumption on or after the date of publication, as provided by section 751(a)(2) of the Act: (1) The cash deposit rate for the respondents noted above will be the rate established in the final results of this administrative review; (2) for merchandise exported by manufacturers or exporters not covered in this administrative review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment of this proceeding; (3) if the exporter is not a firm covered in this review, a prior review, or the original investigation, but the producer is, the cash deposit rate will be the rate established for the most recently completed segment of this proceeding for the producer of the subject merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to be 2.66 percent, the all-others rate established in the investigation.¹² These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers Regarding the Reimbursement of Duties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during the POR. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

Administrative Protective Order

This notice also serves as a reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i) of the Act and 19 CFR 351.221(b)(5).

Dated: March 13, 2019.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. List of Issues
- III. Background
- IV. Scope of the Order
- V. Changes Since the Preliminary Results
- VI. Discussion of the Issues

Inmax-Specific Issues

Comment 1: Revision of General and Administrative Expenses

Region-Specific Issues

Comment 2: Application of the Transactions Disregarded Analysis

- (a) Heat Treatment
- (b) Electroplating
- (c) Clerical Errors

VII. Recommendation

[FR Doc. 2019-05002 Filed 3-15-19; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-423-814, A-580-899, A-517-805, A-559-808, A-791-824, A-469-819]

Acetone From Belgium, the Republic of Korea, the Kingdom of Saudi Arabia, Singapore, the Republic of South Africa, and Spain: Initiation of Less-Than-Fair-Value Investigations

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

DATES: Applicable March 11, 2019.

FOR FURTHER INFORMATION CONTACT: Alex Cipolla at (202) 482-4956 (Belgium); Sean Carey at (202) 482-3964 (the Republic of Korea (Korea)); Michael J. Heaney or Heather Lui at (202) 482-4475 or (202) 482-0016, respectively (the Kingdom of Saudi Arabia (Saudi Arabia)); Moses Y. Song or Joshua A. DeMoss at (202) 482-7885 or (202) 482-3362, respectively (Singapore); Charlotte Baskin-Gerwitz at (202) 482-4880 (the Republic of South Africa (South Africa)); and John C. McGowan or Preston N. Cox at (202) 482-3019 or (202) 482-5041, respectively (Spain); AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Petitions

On February 19, 2019, the U.S. Department of Commerce (Commerce) received antidumping duty (AD) Petitions concerning imports of acetone from Belgium, Korea, Saudi Arabia, Singapore, South Africa, and Spain, filed in proper form on behalf of the Coalition for Acetone Fair Trade (the petitioner).¹ The petitioner is a coalition consisting of domestic producers of acetone.²

Between February 22 and 28, 2019, Commerce requested supplemental information pertaining to certain aspects of the Petitions.³ The petitioner filed responses to these requests on February 26, 2019 and March 4, 2019,

¹ See Petitioner's Letter, "Petitions for the Imposition of Antidumping on Imports of Acetone from Belgium, Korea, Saudi Arabia, Singapore, South Africa and Spain," dated February 19, 2019 (the Petitions).

² The Coalition for Acetone Fair Trade includes AdvanSix Inc., Altivia Petrochemicals, LLC, and Olin Corporation. See Volume I of the Petitions, at 1-2.

³ See Commerce's Letters, "Petitions for the Imposition of Antidumping Duties on Imports of Acetone from Belgium, Korea, Saudi Arabia, Singapore, South Africa, and Spain: Supplemental Questions" (General Issues Supplemental Questionnaire); "Petition for the Imposition of Antidumping Duties on Imports of Acetone from Belgium: Supplemental Questions" (Belgium Supplemental Questionnaire); "Petition for the Imposition of Antidumping Duties on Imports of Acetone from Korea: Supplemental Questions" (Korea Supplemental Questionnaire); "Petition for the Imposition of Antidumping Duties on Imports of Acetone from Saudi Arabia: Supplemental Questions" (Saudi Arabia Supplemental Questionnaire); "Petition for the Imposition of Antidumping Duties on Imports of Acetone from Singapore: Supplemental Questions" (Singapore Supplemental Questionnaire); "Petition for the Imposition of Antidumping Duties on Imports of Acetone from South Africa: Supplemental Questions" (South Africa Supplemental Questionnaire); and "Petition for the Imposition of Antidumping Duties on Imports of Acetone from Spain: Supplemental Questions" (Spain Supplemental Questionnaire). All of these documents are dated February 22, 2019. See also Commerce's Letters, "Petitions for the Imposition of Antidumping Duties on Imports of Acetone from Belgium, Korea, Saudi Arabia, Singapore, South Africa, and Spain: Phone Call with Counsel to the Petitioner Regarding Scope" (Scope Supplemental Questionnaire); "Petitions for the Imposition of Antidumping Duties on Imports of Acetone from Belgium: Phone Call with Counsel to the Petitioner" (Belgium Second Supplemental Questionnaire); "Petitions for the Imposition of Antidumping Duties on Imports of Acetone from Korea: Phone Call with Counsel to the Petitioner" (Korea Second Supplemental Questionnaire); "Petitions for the Imposition of Antidumping Duties on Imports of Acetone from Saudi Arabia: Phone Call with Counsel to the Petitioner" (Saudi Second Supplemental Questionnaire); and "Petition for the Imposition of Antidumping Duties on Imports of Acetone from Singapore: Phone Call with Counsel to the Petitioner" (Singapore Second Supplemental Questionnaire). All of these documents are dated February 28, 2019.

¹² See *Certain Steel Nails from the Republic of Korea: Final Determination of Sales at Less Than Fair Value*, 80 FR 28955 (May 20, 2015).

respectively.⁴ Also on March 4, 2019, the petitioner submitted certain revisions to the scope as requested by Commerce.⁵

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that imports of acetone from Belgium, Korea, Saudi Arabia, Singapore, South Africa and Spain are being, or are likely to be, sold in the United States at less than fair value (LTFV) within the meaning of section 731 of the Act, and that such imports are materially injuring, or threatening material injury to, the domestic industry producing acetone in the United States. Consistent with section 732(b)(1) of the Act, the Petitions are accompanied by information reasonably available to the petitioner supporting its allegations.

Commerce finds that the petitioner filed the Petitions on behalf of the domestic industry because the petitioner is a coalition of interested parties as defined in section 771(9)(C) and (F) of the Act. Commerce also finds that the petitioner demonstrated sufficient industry support with respect to the initiation of the requested AD investigations.⁶

⁴ See Petitioner's Letters, "Acetone from Belgium, Korea, Saudi Arabia, Singapore, South Africa, and Spain/Petitioner's Responses to Supplemental Questions Regarding Volume I" (General Issues Supplement); "Acetone from Belgium/Petitioner's Responses to Supplemental Questions Regarding Volume II" (Belgium Supplement); "Acetone from Korea/Petitioner's Responses to Supplemental Questions Regarding Volume III" (Korea Supplement); "Acetone from Saudi Arabia/Petitioner's Responses to Supplemental Questions Regarding Volume IV" (Saudi Arabia Supplement); "Acetone from Singapore/Petitioner's Responses to Supplemental Questions Regarding Volume V" (Singapore Supplement); "Acetone from South Africa/Petitioner's Responses to Supplemental Questions Regarding Volume VI" (South Africa Supplement); and "Acetone from Spain: Response to Questionnaire on Antidumping Petition/Petitioner's Responses to Supplemental Questions Regarding Volume VII." (Spain Supplement). All of these documents are dated February 26, 2019. See also Petitioner's Letters, "Acetone from Belgium/Petitioner's Responses to Second Supplemental Questions Regarding Volume II" (Second Belgium Supplement); "Acetone from Singapore/Petitioner's Responses to Second Supplemental Questions Regarding Volume II" (Second Singapore Supplement); "Acetone from South Africa/Petitioner's Responses to Second Supplemental Questions Regarding Volume VI" (Second South Africa Supplement); Petitioner's Letter, "Acetone from Spain: Second Supplemental Response to Antidumping Petition" (Second Spain Supplement). All of these documents are dated March 4, 2019.

⁵ See Petitioner's Letter, "Acetone from Belgium, Korea, Saudi Arabia, Singapore, South Africa, and Spain/Petitioner's Responses to Supplemental Questions Regarding Scope" (Scope Supplement), dated March 4, 2019.

⁶ See the "Determination of Industry Support for the Petitions" section, *infra*.

Periods of Investigation

Because the Petitions were filed on February 19, 2019, the period of investigation (POI) for each of the investigations is January 1, 2018, through December 31, 2018.⁷

Scope of the Investigations

The product covered by these investigations is acetone from Belgium, Korea, Saudi Arabia, Singapore, South Africa and Spain. For a full description of the scope of these investigations, see the Appendix to this notice.

Comments on Scope of the Investigations

During our review of the Petitions, Commerce issued questions to, and received responses from, the petitioner pertaining to the proposed scope to ensure that the scope language in the Petitions is an accurate reflection of the products for which the domestic industry is seeking relief.⁸ As a result of these exchanges, the scope of the Petitions was modified to clarify the description of merchandise covered by the Petitions. The description of the merchandise covered by these initiations, as described in the Appendix to this notice, reflects these clarifications.

As discussed in the *Preamble* to Commerce's regulations, we are setting aside a period for interested parties to raise issues regarding product coverage (scope).⁹ Commerce will consider all comments received from interested parties and, if necessary, will consult with interested parties prior to the issuance of the preliminary determinations. If scope comments include factual information,¹⁰ all such factual information should be limited to public information. To facilitate preparation of its questionnaires, Commerce requests that all interested parties submit such comments by 5:00 p.m. Eastern Time (ET) on April 1, 2019, which is the next business day after 20 calendar days from the signature date of this notice.¹¹ Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on April 11, 2019, which is 10 calendar days from the initial comments deadline.

Commerce requests that any factual information parties consider relevant to the scope of the investigations be

submitted during this period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigations may be relevant, the party may contact Commerce and request permission to submit the additional information. All such submissions must be filed on the records of each of the concurrent AD investigations.

Filing Requirements

All submissions to Commerce must be filed electronically using Enforcement and Compliance's Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS).¹² An electronically filed document must be received successfully in its entirety by the time and date it is due. Documents exempted from the electronic submission requirements must be filed manually (*i.e.*, in paper form) with Enforcement and Compliance's APO/Dockets Unit, Room 18022, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, and stamped with the date and time of receipt by the applicable deadlines.

Comments on Product Characteristics for AD Questionnaires

Commerce is providing interested parties an opportunity to comment on the appropriate physical characteristics of acetone to be reported in response to Commerce's AD questionnaires. This information will be used to identify the key physical characteristics of the merchandise under consideration in order to report the relevant costs of production accurately as well as to develop appropriate product-comparison criteria.

Interested parties may provide any information or comments that they feel are relevant to the development of an accurate list of physical characteristics. Specifically, they may provide comments as to which characteristics are appropriate to use as: (1) General product characteristics, and (2) product-comparison criteria. We note that it is not always appropriate to use all product characteristics as product comparison criteria. We base product comparison criteria on meaningful

⁷ See 19 CFR 351.204(b)(1).

⁸ See General Issues Supplemental Questionnaire, at 2-4 and Exhibit I-S1; see also Scope Supplemental Questionnaire, at 2 and Exhibit I-S4.

⁹ See *Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997).

¹⁰ See 19 CFR 351.102(b)(21) (defining "factual information").

¹¹ See 19 CFR 351.303(b).

¹² See *Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011); see also *Enforcement and Compliance: Change of Electronic Filing System Name*, 79 FR 69046 (November 20, 2014) for details of Commerce's electronic filing requirements, effective August 5, 2011. Information on help using ACCESS can be found at <https://access.trade.gov/help.aspx> and a handbook can be found at <https://access.trade.gov/help/Handbook%20on%20Electronic%20Filing%20Procedures.pdf>.

commercial differences among products. In other words, although there may be some physical product characteristics utilized by manufacturers to describe acetone, it may be that only a select few product characteristics take into account commercially meaningful physical characteristics. In addition, interested parties may comment on the order in which the physical characteristics should be used in matching products. Generally, Commerce attempts to list the most important physical characteristics first and the least important characteristics last.

In order to consider the suggestions of interested parties in developing and issuing the AD questionnaires, all product characteristics comments must be filed by 5:00 p.m. ET on April 1, 2019, which is the next business day after 20 calendar days from the signature date of this notice.¹³ Any rebuttal comments must be filed by 5:00 p.m. ET on April 11, 2019. All comments and submissions to Commerce must be filed electronically using ACCESS, as explained above, on the records of the Belgium, Korea, Saudi Arabia, Singapore, South Africa and Spain LTFV investigations.

Determination of Industry Support for the Petitions

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) At least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, Commerce shall: (i) Poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the “industry.”

Section 771(4)(A) of the Act defines the “industry” as the producers, as a whole, of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs Commerce to look to producers and workers who produce the domestic

like product. The International Trade Commission (ITC), which is responsible for determining whether “the domestic industry” has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both Commerce and the ITC must apply the same statutory definition regarding the domestic like product,¹⁴ they do so for different purposes and pursuant to a separate and distinct authority. In addition, Commerce’s determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.¹⁵

Section 771(10) of the Act defines the domestic like product as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.” Thus, the reference point from which the domestic like product analysis begins is “the article subject to an investigation” (i.e., the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, the petitioner does not offer a definition of the domestic like product distinct from the scope of the Petitions.¹⁶ Based on our analysis of the information submitted on the record, we have determined that acetone, as defined in the scope, constitutes a single domestic like product, and we have analyzed industry support in terms of that domestic like product.¹⁷

¹⁴ See section 771(10) of the Act.

¹⁵ See *USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff’d* 865 F.2d 240 (Fed. Cir. 1989)).

¹⁶ See Volume I of the Petitions, at 12–15 and Exhibits I–2 and I–6.

¹⁷ For a discussion of the domestic like product analysis as applied to these cases and information regarding industry support, see Antidumping Duty Investigation Initiation Checklist: Acetone from Belgium (Belgium AD Initiation Checklist), at Attachment II, Analysis of Industry Support for the Antidumping Duty Petitions Covering Acetone from Belgium, Korea, Saudi Arabia, Singapore, South Africa, and Spain (Attachment II); Antidumping Duty Investigation Initiation Checklist: Acetone from Korea (Korea AD Initiation Checklist), at Attachment II; Antidumping Duty Investigation Initiation Checklist: Acetone from Saudi Arabia (Saudi Arabia AD Initiation Checklist), at Attachment II; Antidumping Duty Investigation Initiation Checklist: Acetone from Singapore (Singapore AD Initiation Checklist), at Attachment II; Antidumping Duty Investigation Initiation Checklist: Acetone from South Africa (South Africa AD Initiation Checklist), at Attachment II; and Antidumping Duty Investigation Initiation Checklist: Acetone from Spain (Spain AD Initiation Checklist), at Attachment II. These checklists are dated concurrently with this notice and on file electronically via ACCESS. Access to documents filed via ACCESS is also available in the Central

In determining whether the petitioner has standing under section 732(c)(4)(A) of the Act, we considered the industry support data contained in the Petitions with reference to the domestic like product as defined in the “Scope of the Investigations,” in the Appendix to this notice. To establish industry support, the petitioner provided its own production of the domestic like product in 2018. In addition, the petitioner provided a letter of support from the United Steel, Paper & Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union (USW), which represents workers at three U.S. production facilities (AdvanSix, LyondellBasell, and Shell Chemical). The petitioner added the production of the two producers not in the petitioning coalition (LyondellBassell and Shell Chemical) to the petitioner’s own production data to calculate total support for the Petitions. The petitioner compared its own production plus the production of the two additional producers represented by the USW to the estimated total production of the domestic like product for the entire domestic industry.¹⁸ We relied on data the petitioner provided for purposes of measuring industry support.¹⁹

Our review of the data provided in the Petitions, the General Issues Supplement, and other information readily available to Commerce indicates that the petitioner has established industry support for the Petitions.²⁰ First, the Petitions established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, Commerce is not required to take further action in order to evaluate industry support (e.g., polling).²¹ Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petitions account for at least 25 percent of the total production of the domestic like

Records Unit, Room B8024 of the main Department of Commerce building.

¹⁸ See Volume I of the Petitions, at 2–4 and Exhibits I–1 through I–5 and Exhibit I–29; see also General Issues Supplement, at 5.

¹⁹ *Id.*, at 2–4 and Exhibits I–1 through I–5 and Exhibit I–29; see also General Issues Supplement, at 5. For further discussion, see Attachment II of the Belgium AD Initiation Checklist, Korea AD Initiation Checklist, Saudi Arabia AD Initiation Checklist, Singapore AD Initiation Checklist, South Africa AD Initiation Checklist, and Spain AD Initiation Checklist.

²⁰ *Id.*

²¹ *Id.*; see also section 732(c)(4)(D) of the Act.

¹³ See 19 CFR 351.303(b).

product.²² Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petitions account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petitions.²³ Accordingly, Commerce determines that the Petitions were filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.

Allegations and Evidence of Material Injury and Causation

The petitioner alleges that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise sold at LTFV. In addition, the petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.²⁴

The petitioner contends that the industry's injured condition is illustrated by a significant and increasing volume of subject imports; reduced market share; underselling and price depression or suppression; a decline in the domestic industry's financial performance; and lost sales and revenues.²⁵ We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, causation, negligibility, as well as cumulation, and we have determined that these allegations are properly supported by adequate evidence, and meet the statutory requirements for initiation.²⁶

Allegations of Sales at Less Than Fair Value

The following is a description of the allegations of sales at LTFV upon which Commerce based its decision to initiate AD investigations of imports of acetone from Belgium, Korea, Saudi Arabia, Singapore, South Africa and Spain. The

sources of data for the deductions and adjustments relating to U.S. price and normal value (NV) are discussed in greater detail in the country-specific initiation checklists.

Export Price

For Belgium, the petitioner based export price (EP) on two methods.²⁷ First, the petitioner used import data to determine average unit values (AUVs) of imports of acetone from Belgium.²⁸ Second, the petitioner was able to match individual shipments of acetone identified in the publicly available shipment data to individual entries of acetone in publicly available import data to determine the shipper, consignee, and AUV of specific shipments.²⁹

For Korea and Singapore, the petitioner based EP on three methods.³⁰ First, the petitioner used publicly available customs data to determine AUV of imports of acetone from Korea and Singapore.³¹ Second, the petitioner matched individual shipments of goods identified in publicly available import data from Korea and Singapore into the United States with individual entries of acetone in publicly available customs data, to determine transaction-specific AUVs.³² Lastly, the petitioner used offers from a Korean and Singaporean producer to a U.S. customer to establish EP.³³

For Saudi Arabia, the petitioner based EP on AUVs which were based on publicly available import data.³⁴

For South Africa, the petitioner based EP on two methodologies—the first method relied on official U.S. Customs statistics to determine the AUV of imports of acetone from South Africa; the second method involved matching individual shipments of goods identified in Custom and Border Protection's Automated Manifest System (AMS) to individual entries of acetone in the official U.S. Customs statistics to determine the AUV of specific shipments.³⁵

For Spain, the petitioner based EP on two methodologies.³⁶ First, the petitioner based EP on pricing information for acetone produced in, and exported from, Spain and sold or offered for sale in the United States.³⁷

Second, the petitioner relied on AUVs of publicly available U.S. import data from Spain to establish EP.³⁸

Normal Value

The petitioner obtained home market prices for Korea, Singapore, and South Africa and third country prices for Belgium, but these prices were below cost of production. Consequently, the petitioner, relied on CV as the basis for NV. For further discussion of CV, *see* the section "Normal Value Based on Constructed Value" below.

For Saudi Arabia and Spain, the petitioner was unable to obtain reliable information relating to the prices charged for acetone produced and sold in Saudi Arabia and Spain or third country sales prices for acetone produced in these countries.³⁹ Because home market prices and third country prices were not reasonably available, the petitioner calculated NV based on constructed value (CV). For further discussion of CV, *see* the section "Normal Value Based on Constructed Value" below.⁴⁰

Normal Value Based on Constructed Value

As noted above, the petitioner obtained home market prices for Korea, Singapore, and South Africa and third country prices for Belgium, but demonstrated that these prices were below the COP; therefore, the petitioner based NV on CV pursuant to section 773(a)(4) of the Act.⁴¹ The petitioner was unable to obtain information relating to the prices charged for acetone in Saudi Arabia and Spain, or any third country market; accordingly, the petitioner also based NV on CV.⁴² Pursuant to section 773(e) of the Act, CV consists of the cost of manufacturing (COM), SG&A expenses, financial expenses, profit, and packing expenses.

The petitioner calculated the COM based on domestic producers' input FOPs and usage rates for raw materials,

³⁸ *Id.*

³⁹ *See* Saudi Arabia and Spain AD Initiation Checklists.

⁴⁰ In accordance with section 505(a) of the Trade Preferences Extension Act of 2015, amending section 773(b)(2) of the Act, for this investigation, Commerce will request information necessary to calculate the CV and cost of production (COP) to determine whether there are reasonable grounds to believe or suspect that sales of the foreign like product have been made at prices that represent less than the COP of the product. Commerce no longer requires a COP allegation to conduct this analysis.

⁴¹ *See* Belgium AD Initiation Checklist; Singapore AD Initiation Checklist; South Africa AD Initiation Checklist; and South Korea AD Initiation Checklist.

⁴² *See* Saudi Arabia AD Initiation Checklist and Spain AD Initiation Checklist.

²² *See* Attachment II of the Belgium AD Initiation Checklist, Korea AD Initiation Checklist, Saudi Arabia AD Initiation Checklist, Singapore AD Initiation Checklist, South Africa AD Initiation Checklist, and Spain AD Initiation Checklist.

²³ *Id.*

²⁴ *See* Volume I of the Petitions, at 19–20 and Exhibit I–16.

²⁵ *Id.*, at 19–25 and Exhibits I–12 through I–13, and I–16 through I–20.

²⁶ *See* Belgium AD Initiation Checklist, at Attachment III; Korea AD Initiation Checklist, at Attachment III; Saudi Arabia AD Initiation Checklist, at Attachment III; Singapore AD Initiation Checklist, at Attachment III; South Africa AD Initiation Checklist, at Attachment III; and Spain AD Initiation Checklist, at Attachment III.

²⁷ *See* Belgium Initiation Checklist.

²⁸ *Id.*

²⁹ *Id.*

³⁰ *See* Korea and Singapore Initiation Checklists.

³¹ *Id.*

³² *Id.*

³³ *Id.*

³⁴ *See* Saudi Arabia Initiation Checklist.

³⁵ *See* South Africa AD Initiation Checklist.

³⁶ *See* Spain Initiation Checklist.

³⁷ *Id.*

labor, and energy.⁴³ The petitioner valued the input FOPs using publicly available data on costs specific to Belgium, Singapore, South Africa, Korea, Saudi Arabia, and Spain during the proposed POI. Specifically, the petitioner based the prices for raw material inputs on publicly available import data for Belgium, Singapore, South Africa, Korea, Saudi Arabia, and Spain.⁴⁴ The prices for benzene and propylene for South Africa were based on the cost information from another acetone producer. The petitioner valued labor and energy costs using publicly available sources for Belgium, Singapore, South Africa, Korea, Saudi Arabia, and Spain.⁴⁵ The petitioner calculated factory overhead, SG&A, financial expenses, and profit for Belgium, Singapore, South Africa, Korea, Saudi Arabia, and Spain based on the experience of a producer of acetone from each of these countries.⁴⁶

Fair Value Comparisons

Based on the data provided by the petitioner, there is reason to believe that imports of acetone from Belgium, Korea, Saudi Arabia, Singapore, South Africa and Spain are being, or are likely to be, sold in the United States at LTFV. Based on comparisons of EP to NV in accordance with sections 772 and 773 of the Act, the estimated dumping margins for acetone for each of the countries covered by this initiation are as follows: (1) Belgium—43.14 to 73.69 percent;⁴⁷ (2) Korea—112.72 to 174.66 percent;⁴⁸ (3) Saudi Arabia—36.88 percent;⁴⁹ (4) Singapore—14.52 to 131.75 percent;⁵⁰ (5) South Africa—214.09 to 414.92 percent;⁵¹ and (6) Spain—102.97 and 171.81 percent.⁵²

Initiation of LTFV Investigations

Based upon the examination of the AD Petitions and supplemental responses, we find that the Petitions meet the requirements of section 732 of the Act. Therefore, we are initiating AD

investigations to determine whether imports of acetone from Belgium, Korea, Saudi Arabia, Singapore, South Africa and Spain are being, or are likely to be, sold in the United States at LTFV. In accordance with section 733(b)(1)(A) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determinations no later than 140 days after the date of this initiation.

Identification of Respondents

The petitioner named one producer in Belgium (INEOS Phenol Belgium NV (INEOS Phenol)),⁵³ two producers in Korea (Kumho P & B Chemicals, Inc. (Kumho) and LG Chem, Ltd. (LG Chem)),⁵⁴ two producers in Saudi Arabia (Rabigh Refining & Petrochemical Company (Petro Rabigh) and Saudi Kayan Petrochemical Company (Saudi Kayan)),⁵⁵ one producer in Singapore (Mitsui Phenols Singapore Pte Ltd (Mitsui)),⁵⁶ one producer in South Africa (Sasol Limited (Sasol)),⁵⁷ and two producers in Spain (CEPSA Quimica, S.A. and IQOXE).⁵⁸ Moreover, the petitioner provided evidence in each of the Petitions indicating that the named producers were the only producers of acetone in the subject countries.⁵⁹

Although Commerce normally relies on import data using United States Customs and Border Protection (CBP) import statistics to determine whether to select a limited number of producers/exporters for individual examination in AD investigations, the petitioner has identified only one or two producers in each subject country and has demonstrated that these are the sole producers. We currently know of no additional producers/exporters of acetone from Belgium, Korea, Saudi Arabia, Singapore, South Africa, or Spain. Accordingly, Commerce intends to examine all known producers in each of the six investigations, as indicated by the supporting information included in the Petitions (described above).⁶⁰ We

invite interested parties to comment on this issue. Such comments may include factual information within the meaning of 19 CFR 351.102(b)(21). Parties wishing to comment must do so within three business days of the publication of this notice in the **Federal Register**. Comments must be filed electronically using ACCESS. An electronically filed document must be received successfully in its entirety by Commerce's electronic records system, ACCESS, by 5 p.m. ET by the specified deadline.

Distribution of Copies of the Petitions

In accordance with section 732(b)(3)(A) of the Act and 19 CFR 351.202(f), copies of the public version of the Petitions have been provided to the governments of Belgium, Korea, Saudi Arabia, Singapore, South Africa, and Spain *via* ACCESS. To the extent practicable, we will attempt to provide a copy of the public version of the Petitions to each exporter named in the Petitions, as provided under 19 CFR 351.203(c)(2).

ITC Notification

We will notify the ITC of our initiation, as required by section 732(d) of the Act.

Preliminary Determinations by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petitions were filed, whether there is a reasonable indication that imports of acetone from Belgium, Korea, Saudi Arabia, Singapore, South Africa and Spain are materially injuring or threatening material injury to a U.S. industry.⁶¹ A negative ITC determination for any country will result in the investigation being terminated with respect to that country.⁶² Otherwise, the investigations will proceed according to statutory and regulatory time limits.

Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)–(iv). 19 CFR 351.301(b)

the Petitions have identified the complete set of producers in each country, there currently is no need to issue questionnaires to the trading companies/exporters as well.

⁶¹ See section 733(a) of the Act.

⁶² *Id.*

⁴³ See Belgium AD Initiation Checklist; Singapore AD Initiation Checklist; South Africa AD Initiation Checklist; South Korea AD Initiation Checklist; Saudi Arabia AD Initiation Checklist; and, Spain AD Initiation Checklist. Because the petitioner's member producers in the United States purchase cumene, whereas the Korean producers of acetone produce their own cumene, the petitioner based the input factors of production for cumene on a cumene production facility located in a third country. See Volume III of the Petitions, at Korea Exhibit III–3.

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ See Belgium AD Initiation Checklist.

⁴⁸ See Korea AD Initiation Checklist.

⁴⁹ See Saudi Arabia AD Initiation Checklist.

⁵⁰ See Singapore AD Initiation Checklist.

⁵¹ See South Africa AD Initiation Checklist.

⁵² See Spain AD Initiation Checklist.

⁵³ See Volume I of the Petitions at Exhibit I–10.

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ *Id.* Sasol is identified in the petition by various names including: Sasol Limited Company (Exhibit VI–3), Sasol Limited Group (Exhibit VI–3), Sasol Limited (Exhibit VI–3), and as Sasol Solvents Sasol Limited (Exhibit I–10). Commerce intends to issue one questionnaire addressed to all variations of the company name under one cover letter.

⁵⁸ *Id.*

⁵⁹ See, e.g., Volume II of the Petitions at Exhibit II–6; Volume VI of the Petitions at Exhibit VI–7. See also Volume I of the Petitions at Exhibit I–2.

⁶⁰ The Petitions also identify four possible trading companies, with no indication of which countries' acetone those companies might be trading/exporting to the United States. However, because

requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted⁶³ and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct.⁶⁴ Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Interested parties should review the regulations prior to submitting factual information in these investigations.

Particular Market Situation Allegation

Section 504 of the Trade Preferences Extension Act of 2015 amended the Act by adding the concept of particular market situation (PMS) for purposes of CV under section 773(e) of the Act.⁶⁵ Section 773(e) of the Act states that “if a particular market situation exists such that the cost of materials and fabrication or other processing of any kind does not accurately reflect the cost of production in the ordinary course of trade, the administering authority may use another calculation methodology under this subtitle or any other calculation methodology.” When an interested party submits a PMS allegation pursuant to section 773(e) of the Act, Commerce will respond to such a submission consistent with 19 CFR 351.301(c)(2)(v). If Commerce finds that a PMS exists under section 773(e) of the Act, then it will modify its dumping calculations appropriately.

Neither section 773(e) of the Act nor 19 CFR 351.301(c)(2)(v) set a deadline for the submission of PMS allegations and supporting factual information. However, in order to administer section 773(e) of the Act, Commerce must receive PMS allegations and supporting factual information with enough time to consider the submission. Thus, should an interested party wish to submit a PMS allegation and supporting new factual information pursuant to section 773(e) of the Act, it must do so no later than 20 days after submission of a respondent's initial section D questionnaire response.

Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a

time limit established under 19 CFR 351.301, or as otherwise specified by the Secretary. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301. For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET on the due date. Under certain circumstances, we may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, we will inform parties in a letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; under limited circumstances we will grant untimely-filed requests for the extension of time limits. Parties should review *Extension of Time Limits; Final Rule*, 78 FR 57790 (September 20, 2013), available at <http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm>, prior to submitting factual information in these investigations.

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.⁶⁶ Parties must use the certification formats provided in 19 CFR 351.303(g).⁶⁷ Commerce intends to reject factual submissions if the submitting party does not comply with the applicable revised certification requirements.

Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. On January 22, 2008, Commerce published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures*, 73 FR 3634 (January 22, 2008). Parties wishing to participate in these investigations should ensure that they meet the requirements of these procedures (e.g., the filing of letters of appearance as discussed at 19 CFR 351.103(d)).

This notice is issued and published pursuant to sections 732(c)(2) and 777(i) of the Act, and 19 CFR 351.203(c).

Dated: March 11, 2019.

Christian Marsh,

Deputy Assistant Secretary for Enforcement and Compliance.

Appendix

Scope of the Investigations

The merchandise covered by these investigations is all grades of liquid or aqueous acetone. Acetone is also known under the International Union of Pure and Applied Chemistry (IUPAC) name propan-2-one. In addition to the IUPAC name, acetone is also referred to as β -ketopropane (or beta-ketopropane), ketone propane, methyl ketone, dimethyl ketone, DMK, dimethyl carbonyl, propanone, 2-propanone, dimethyl formaldehyde, pyroacetic acid, pyroacetic ether, and pyroacetic spirit. Acetone is an isomer of the chemical formula C_3H_6O , with a specific molecular formula of CH_3COCH_3 or $(CH_3)_2CO$.

The scope includes acetone that is combined or mixed with other products, including, but not limited to, isopropyl alcohol, benzene, diethyl ether, methanol, chloroform, and ethanol, regardless of the quantity or value of the acetone component. For such combined products, only the acetone component is covered by the scope of these investigations. Acetone that has been combined with other products is included within the scope, regardless of whether the combining occurs in third countries. Notwithstanding the foregoing language, an acetone combination or mixture that is transformed through a chemical reaction into another product, such that, for example, the acetone can no longer be separated from the other products through a distillation process (e.g., methyl methacrylate (MMA) or Bisphenol A (BPA)) is excluded from these investigations.

The scope also includes acetone that is commingled with acetone from sources not subject to these investigations, regardless of the quantity or value of the subject acetone component. Only the subject merchandise component of such commingled products is covered by the scope of these investigations. Acetone that has been commingled with acetone from sources not subject to these investigations is included within the scope, regardless of whether the combining occurs in third countries. The acetone component from sources not subject to these investigations may still be subject to other acetone investigations.

The Chemical Abstracts Service (CAS) registry number for acetone is 67–64–1.

The merchandise covered by these investigations is currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 2914.11.1000 and 2914.11.5000. Acetone and acetone combinations and mixtures covered by these investigations may also enter under different HTSUS subheadings, such as 2902.20.0000, 2902.70.0000, 2905.12.0050, or 2914.12.0000, however, this list of HTSUS subheadings is non-exhaustive. Although these HTSUS

⁶³ See 19 CFR 351.301(b).

⁶⁴ See 19 CFR 351.301(b)(2).

⁶⁵ See *Trade Preferences Extension Act of 2015*, Public Law 114–27, 129 Stat. 362 (2015).

⁶⁶ See section 782(b) of the Act.

⁶⁷ See also *Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings*, 78 FR 42678 (July 17, 2013) (*Final Rule*). Answers to frequently asked questions regarding the *Final Rule* are available at http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.

subheadings and CAS registry number are provided for convenience and customs purposes, the written description of the scope of these investigations is dispositive.

[FR Doc. 2019-05004 Filed 3-15-19; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XG514

Atlantic Highly Migratory Species; Atlantic Shark Management Measures; 2019 Research Fishery

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

ACTION: Notice of public meeting.

SUMMARY: On November 1, 2018, NMFS published a notice inviting qualified commercial shark permit holders to submit applications to participate in the 2019 shark research fishery. The shark research fishery allows for the collection of fishery-dependent data for future stock assessments and cooperative research with commercial fishermen to meet the shark research objectives of the Agency. Every year, the permit terms and permitted activities (e.g., number of hooks and retention limits) specifically authorized for selected participants in the shark research fishery are designated depending on the scientific and research needs of the Agency, as well as the number of NMFS-approved observers available. In order to inform selected participants of this year's specific permit requirements and ensure all terms and conditions of the permit are met, NMFS is holding a mandatory meeting (via conference call) for selected participants. The date and time of that meeting is announced in this notice.

DATES: A conference call will be held on March 25, 2019.

ADDRESSES: A conference call will be conducted. See **SUPPLEMENTARY INFORMATION** for information on how to access the conference call.

FOR FURTHER INFORMATION CONTACT: Lauren Latchford at (301) 427-8503, or Delisse Ortiz at (240) 681-9037.

SUPPLEMENTARY INFORMATION: The Atlantic shark fisheries are managed under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The 2006 Consolidated Highly Migratory species (HMS) Fishery Management Plan (FMP) is

implemented by regulations at 50 CFR part 635.

The final rule for Amendment 2 to the 2006 Consolidated HMS FMP (73 FR 35778, June 24, 2008, corrected at 73 FR 40658, July 15, 2008) established, among other things, a shark research fishery to maintain time-series data for stock assessments and to meet NMFS' research objectives. The shark research fishery gathers important scientific data and allows selected commercial fishermen the opportunity to earn more revenue from selling the sharks caught, including sandbar sharks. Only the commercial shark fishermen selected to participate in the shark research fishery are authorized to land/harvest sandbar sharks subject to the sandbar quota available each year. The 2019 sandbar shark quota is 90.7 mt dw per year. The selected shark research fishery participants also have access to the research large coastal shark, small coastal shark, and pelagic shark quotas subject to retention limits and quotas per §§ 635.24 and 635.27, respectively.

On November 1, 2018 (83 FR 54917), NMFS published a notice inviting qualified commercial shark directed and incidental permit holders to submit an application to participate in the 2019 shark research fishery. NMFS received 11 applications and selected five participants. In order to inform selected participants of this year's specific permit requirements and to ensure all terms and conditions of the permit are met, per the requirements of § 635.32 (f)(4), NMFS is holding a mandatory permit holder meeting via conference call.

Conference Call Date, Time, and Dial-In Number

The conference call will be held on March 25, 2019, from 1:30 to 3:30 p.m. (EDT). Participants and interested parties should call 1-888-603-8940 and use the passcode 3680172. This call is mandatory for selected participants. Selected participants who do not attend will not be allowed to participate in the shark research fishery. While the conference call is mandatory for selected participants, other interested parties may call in and listen to the discussion. Selected participants are encouraged to invite their captain, crew, or anyone else who may assist them in meeting the terms and conditions of the shark research fishery permit.

Dated: March 13, 2019.

Karen H. Abrams,

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

[FR Doc. 2019-04995 Filed 3-15-19; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XG878

Marine Mammals; File No. 22387

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that Benjamin Hubert, Ph.D., New York Genome Center, 101 Avenue of the Americas, New York City, NY 10013, has applied in due form for a permit to import specimens from southern hemisphere humpback whales (*Megaptera novaeangliae*).

DATES: Written, telefaxed, or email comments must be received on or before April 17, 2019.

ADDRESSES: The application and related documents are available for review by selecting "Records Open for Public Comment" from the "Features" box on the Applications and Permits for Protected Species (APPS) home page, <https://apps.nmfs.noaa.gov>, and then selecting File No. 22387 from the list of available applications.

These documents are also available upon written request or by appointment in the Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427-8401; fax (301) 713-0376.

Written comments on this application should be submitted to the Chief, Permits and Conservation Division, at the address listed above. Comments may also be submitted by facsimile to (301) 713-0376, or by email to NMFS.Pr1Comments@noaa.gov. Please include the File No. 22387 in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits and Conservation Division at the address listed above. The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Jennifer Skidmore or Carrie Hubard, (301) 427-8401.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), and the regulations governing the taking and importing of marine mammals (50 CFR part 216).

The applicant proposes to import biological samples from up to 10 humpback whales (east Australia migrating stock) annually. These samples will be used in genetic analyses. The requested duration of the permit is five years.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of the application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: March 13, 2019.

Julia Marie Harrison,
Chief, Permits and Conservation Division,
Office of Protected Resources, National
Marine Fisheries Service.

[FR Doc. 2019-04962 Filed 3-15-19; 8:45 am]

BILLING CODE 3510-22-P

BUREAU OF CONSUMER FINANCIAL PROTECTION

Supervisory Highlights, Issue 18 (Winter 2019)

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Supervisory highlights.

SUMMARY: The Bureau of Consumer Financial Protection (CFPB or Bureau) is issuing its eighteenth edition of its Supervisory Highlights. In this issue of Supervisory Highlights, we report examination findings in the areas of automobile loan servicing, deposits, mortgage servicing, and remittances that were generally completed between June 2018 and November 2018. The report does not impose any new or different legal requirements, and all violations described in the report are based only on those specific facts and circumstances noted during those examinations. As in past editions, this report includes information about recent public enforcement actions that were a result, at least in part, of our supervisory work.

DATES: The Bureau released this edition of the Supervisory Highlights on its website on March 1, 2019.

FOR FURTHER INFORMATION CONTACT: Vanessa Careiro, Counsel, at (202) 435-9394. If you require this document in an alternative electronic format, please contact CFPB_Accessibility@cfpb.gov.

SUPPLEMENTARY INFORMATION:

1. Introduction

The Consumer Financial Protection Bureau (CFPB or Bureau) is committed to a consumer financial marketplace that is free, innovative, competitive, and transparent, where the rights of all parties are protected by the rule of law, and where consumers are free to choose the products and services that best fit their individual needs. To effectively accomplish this, the Bureau remains committed to sharing with the public key findings from its supervisory work to help industry limit risks to consumers and comply with Federal consumer financial law.

The findings included in this report cover examinations in the areas of automobile loan servicing, deposits, mortgage servicing, and remittances that were generally completed between June and November 2018 (unless otherwise stated).

It is important to keep in mind that institutions are subject only to the requirements of relevant laws and regulations. The information contained in Supervisory Highlights is disseminated to help institutions better understand how the Bureau examines institutions for compliance with those requirements. This document does not impose any new or different legal requirements. In addition, the legal violations described in this and previous issues of Supervisory Highlights are based on the particular facts and circumstances reviewed by the Bureau as part of its examinations. A conclusion that a legal violation exists on the facts and circumstances described here may not lead to such a finding under different facts and circumstances.

We invite readers with questions or comments about the findings and legal analysis reported in Supervisory Highlights to contact us at CFPB_Supervision@cfpb.gov.

2. Supervisory Observations

Recent supervisory observations are reported in the areas of automobile loan servicing, deposits, mortgage servicing, and remittances.

2.1 Automobile Loan Servicing

The Bureau continues to examine auto loan servicing activities, primarily to assess whether servicers have engaged in unfair, deceptive, or abusive acts or practices (UDAAPs) prohibited by the Consumer Financial Protection Act of 2010 (CFPA). Recent auto loan servicing examinations identified unfair acts or practices related to collecting incorrectly calculated deficiency

balances. Recent examinations have also identified deceptive acts or practices related to representations on deficiency balance notices.

2.1.1 Unfair and Deceptive Practices Regarding Rebates for Certain Ancillary Products

Examiners reviewed the servicing operations of one or more captive auto finance companies. A captive auto finance company is a finance company that is owned by an auto manufacturer that finances retail purchases of autos from that manufacturer. Borrowers financing a car sometimes purchased ancillary products such as an extended warranty and financed the products through the same loan. If the borrower later experiences a total loss or repossession, the servicer or borrower may cancel such ancillary products in order to obtain pro-rated rebates of the premium amounts for the unused portion of the products. In these situations, the rebate is payable first to the servicer to cover any deficiency balance and then to the borrower. Generally, the servicer contractually reserves the right to request the rebate without the borrower's participation, although it does not obligate itself to do so. The borrower also retains a right to request the rebate.

In the extended warranty products reviewed during the examination(s), the amount of potential rebates for the products depended on the number of miles driven. Examiners observed instances where one or more servicers used the wrong mileage amounts to calculate the rebate for extended-warranty cancellations. For some borrowers who financed used vehicles, the servicers applied the total number of miles the car had been driven to calculate rebates. However, the servicer(s) should have applied the net number of miles driven since the borrower purchased the automobile. The miscalculation reduced the rebate available to certain borrowers and led to deficiency balances that were higher by hundreds of dollars. The servicer(s) then attempted to collect the deficiency balances.

One or more examinations found that servicer attempts to collect miscalculated deficiency balances were unfair. Collecting inaccurately inflated deficiency balances caused or was likely to cause substantial injury to consumers. And these borrowers could not reasonably have avoided collection attempts on inaccurate balances because they were uninvolved in the servicer's calculation process. The injury of this activity is not outweighed by the countervailing benefits to consumers or

competition. For example, the additional expense the servicers would incur to train staff or service providers to ensure that refund calculations are correct would not outweigh the substantial injury to consumers. In response to these findings, the servicer(s) conducted reviews to identify and remediate affected borrowers based on the mileage they drove before the repossession or total loss of their vehicles. The servicer(s) also began to verify mileage calculations directly with the issuers of the products subject to rebate.

Additionally, examiners observed instances where one or more servicers did not request rebates for eligible ancillary products after a repossession or a total loss. The servicer(s) then sent these borrowers deficiency notices listing a final deficiency balance purporting to net out available "total credits/rebates" including insurance and other rebates. The notices also stated that future additional rebates may affect the amount of the surplus or deficiency, but that "[a]t this time, we are not aware of any such charges." However, the servicers' records contained information that it had not sought the eligible rebates. The examination(s) showed that the average unclaimed rebate was roughly \$1,700.

One or more examinations identified these communications as a deceptive act or practice. The deficiency notice misled borrowers because it created the net impression that the deficiency balance reflected a setoff of all eligible ancillary-product rebates, when in fact, the servicer(s)' systems showed that it had not sought one or more eligible rebates. It was reasonable for consumers to interpret this deficiency balance as reflecting any eligible rebates because the servicer(s) were both contractually entitled and financially incentivized to seek and apply eligible rebates to the deficiency balance. And the misrepresentation was material to consumers because they may have pursued rebates on their own had the servicer(s) not represented that there were not additional rebates available.

In response to these findings, the servicer(s) conducted reviews to identify and remediate affected borrowers. The servicer(s) also changed deficiency notices to clarify the status of eligible ancillary product rebates.

2.2 Deposits

The CFPB continues to review the deposits operations of the entities under its supervisory authority for compliance with relevant statutes and regulations, including the CFPB's prohibition on UDAAPs.

2.2.1 Deceptive Representations About Bill-Pay Debited Date

Examiners found that one or more institutions engaged in a deceptive act or practice by representing that payments made through an institution's online bill-pay service would be debited on the date selected by the consumer or a few days after the selected date, while failing to disclose or failing to disclose adequately that, in instances where a payee accepts only a paper check, the debit may occur earlier than the selected date. These paper bill-pay checks were sent several days prior to the consumer-designated payment date, at the discretion of the institution(s). The payment would be debited from the consumer's account when the payee presented and cashed the check, which may have occurred earlier or later than the date selected by the consumer. The failure to notify consumers that their bill-pay payments, if made by paper check, may be debited on a date sooner than the date selected as part of the transaction caused some consumers to pay overdraft fees.

The failure by the institution(s) to disclose or failure to disclose adequately the possible earlier debit date in light of online bill-pay service representations created the net impression that payments made through the online bill-pay service would be withdrawn no earlier than the payment date designated by the consumer. It would be reasonable for consumers to understand that the payment date they designated would be the earliest date that the payment would be withdrawn from their account. Consumers' understanding of when funds will be withdrawn is material to consumers' decisions regarding which payment date to designate in the first instance and then how to manage funds in the accounts on a going-forward basis, to ensure there is a sufficient balance to cover the anticipated withdrawals.

In response to the examination findings, the institution(s) undertook a revision of consumer-facing online bill-pay materials to disclose paper checks will be mailed before the payment date selected by the consumer and that the payment would be debited from the consumer's account when the payee presented the check. The institution(s) also undertook a plan to remediate consumers charged an overdraft fee as a result of a paper check being negotiated before the payment date selected by the consumer through the online bill-pay system.

2.3 Mortgage Servicing

The Bureau continues to examine mortgage servicers, including servicers of manufactured home loans and reverse mortgage loans, for compliance with Federal consumer financial laws. Recent examinations identified unfair acts or practices for charging consumers unauthorized amounts, deceptive acts or practices for misrepresenting aspects of private mortgage insurance cancellation, violation(s) of Regulation X loss mitigation requirements, and potentially misleading statements to successors-in-interest on reverse mortgages.

2.3.1 Charging Consumers Unauthorized Amounts

One or more examinations observed that servicers charged consumers late fees greater than the amount permitted by mortgage notes. Examiners identified several types of affected mortgage notes. For example, certain Federal Housing Authority (FHA) mortgage notes permit servicers to collect late fees in the amount of 4.00% of the overdue principal and interest. However, on large numbers of loans, the servicer(s) charged late fees on 4.00% of the overdue principal, interest, taxes and insurance, rather than on only the principal and interest. Examiners also identified mortgage notes containing provisions that limit the late fee amount. For example, certain West Virginia mortgage notes permit servicers to collect "5.00% of that portion of the installment of principal and interest that is overdue, but not more than U.S. \$15.00." However, on large numbers of loans, the servicer(s) charged a late fee greater than \$15.

Programming errors in the servicing platform and lapses in service provider oversight caused the overcharges. The examination(s) found that the servicer(s) engaged in an unfair practice. The conduct caused a substantial injury to consumers because they paid more in late fees than required by their mortgage notes. The conduct of the servicer(s) affected thousands of consumers, making the aggregate injury substantial. Consumers could not reasonably avoid this injury since the servicer(s) automatically imposed the late fees. And since the servicer(s) were not contractually permitted to collect the excessive late charges, the practice had no countervailing benefits. In response to the examination findings, the servicer(s) conducted a review to identify and remediate affected borrowers. The servicer(s) also changed policies and procedures to assist in charging the late fee amount authorized by the mortgage note.

2.3.2 Misrepresenting Private Mortgage Insurance Cancellation Denial Reasons

In relevant part, the Homeowners Protection Act (HPA) requires servicers to cancel private mortgage insurance (PMI) in connection with a residential mortgage transaction if certain conditions are met. Among other conditions, the consumer must request the cancellation in writing, and the principal balance of the mortgage must have: (1) Reached 80% of the original value (LTV) of the property based solely on actual payments; or (2) reached the date on which it was first scheduled to fall to 80% of the original value of the property, based solely on the amortization schedule in effect at a particular point in time depending on the loan type regardless of the outstanding balance.¹

At one or more servicers, borrowers who verbally requested PMI cancellation were informed that they were declined because they had not reached 80% LTV. Although the relevant amortization schedules did not yet provide for 80% LTV, examiners found that these borrowers had in fact reached 80% LTV based on actual payments because they had made extra principal payments. Although the borrowers did not satisfy other criteria necessary to trigger borrower-initiated cancellation rights under the HPA, such as certifying that the property is unencumbered by subordinate liens or submitting the requests in writing, the servicer(s) did not provide these as reasons to borrowers for denying the requests.

One or more examinations identified servicer representations as deceptive because they misrepresented the conditions for PMI removal.² The servicer communications would likely mislead consumers about whether and when the HPA entitled them to request that the servicer cancel PMI, and about the actual reasons the borrowers were not eligible for PMI cancellation. It would be reasonable for consumers to believe that they were not eligible for PMI cancellation for the reasons stated in the letters because most consumers would not have a basis to question the misrepresentations. A consumer might think that she had miscalculated payments such that she had not yet reached 80% LTV, or had misunderstood some other aspect of meeting the LTV requirement. Lastly, the servicers' misrepresentations were material because they were likely to

affect a borrower's choice as to whether to continue to request PMI cancellation, including whether to address the actual, uncommunicated reasons for ineligibility. For instance, borrowers receiving the incorrect denial reason may fail to address other eligibility requirements to obtain PMI cancellation. They may also be discouraged from requesting PMI cancellation in some circumstances in which Federal law or the servicer's policies would give them a right to cancel PMI. In response to examiners' findings, the servicer(s) changed templates, as well as policies and procedures, to ensure that PMI cancellation notices state accurate denial reasons.

2.3.3 Failing To Exercise Reasonable Diligence To Complete Loss Mitigation Applications

Regulation X requires servicers to exercise "reasonable diligence" in obtaining documents and information to complete a loss mitigation application.³ The actions that would satisfy this requirement depend on the facts and circumstances at hand.⁴

In examination(s) covering 2016 activity, examiners found one or more servicers did not meet the Regulation X "reasonable diligence" requirements. These servicer(s) offered short-term payment forbearance programs during collection calls to delinquent borrowers who expressed interest in loss mitigation and submitted financial information that the servicer would consider in evaluating them for loss mitigation. The short-term payment forbearance programs deferred some or all of the borrower's past due payments to the end of the loan, thereby extending its maturity. However, the servicer(s) did not notify the borrowers that such short-term payment forbearance programs were based on an incomplete application evaluation. And near the end of the forbearance period, the servicer(s) did not contact the borrowers as to whether they wished to complete the applications to receive a full loss mitigation evaluation. As a result, one or more examinations found that the

servicer(s) violated 1024.41(b)(1) requirements to exercise reasonable diligence in obtaining documents and information to complete a loss mitigation application. The examination(s) did not review currently applicable 1024.41(c)(2) requirements, as those requirements went into effect on October 19, 2017. In response to these findings, the servicer(s) used enhanced processes, such as a centralized queue, to track borrowers receiving short-term forbearance programs and subsequently notify them that additional loss mitigation options may be available and that they could apply for such options over the phone or in writing.

2.3.4 Representing the Requirements for Foreclosure Timeline Extensions in Home Equity Conversion Mortgages

One or more examinations reviewed servicing of Home Equity Conversion Mortgage (HECM) loans, a type of reverse mortgage insured by the United States Department of Housing and Urban Development (HUD). Under the terms of such mortgages, the death of the borrower on the loan constitutes default, and HUD generally requires HECM servicers to refer such loans to foreclosure within six months of the death of the borrower to be eligible for HUD insurance. HUD also allows servicers to request up to two 90-day extensions to enable successors to purchase the property or market the property for sale without losing the benefit of HUD insurance.

One or more servicers sent a notice to successors-in-interest after the borrower on the loan died. The notice stated that the loan balance was due and payable, but that the successor could qualify for an extension of time to delay or avoid foreclosure. The notice directed the successor to return an enclosed form stating the intentions for the property within thirty days. The notice also listed several documents that may be applicable to the successor's evaluation, but did not direct the successor to submit any of the documents within a certain timeframe to be eligible for an extension.

Examiners found that some successors did not receive a complete list of all the documents needed to evaluate them for an extension. Some of these successors returned the form indicating their intentions to purchase the property or market the property for sale, but did not return all the documents that were needed for the evaluation. As a result, the servicer(s) did not seek an extension for these successors. Instead, the servicer(s) assessed foreclosure fees and in some instances foreclosed on the

¹ 12 U.S.C. 4901(2).

² The HPA does not require servicers to respond to verbal requests to eliminate PMI and therefore the servicer(s) did not violate the HPA.

³ 12 CFR 1024.41(b)(1).

⁴ Comment 41(b)(1)–4.i–iii. For example, reasonable diligence might include promptly contacting the applicant to obtain the missing information; or, if the servicer has offered a short-term payment forbearance program based upon an evaluation of an incomplete application, actions like notifying the borrower about the option to complete the application to receive a full evaluation and, if necessary, contacting the borrower near the end of the forbearance period and prior to the end of the forbearance period to determine if the borrower wishes to complete the application and proceed with a full evaluation.

property. The examination(s) did not find that this conduct amounted to a legal violation but observed that it could pose a risk of a deceptive act or practice by giving the net impression that the statement of intent was all that was needed, until further notice, to delay foreclosure, when in fact that was insufficient to delay foreclosure. In response to the examiner observations, the servicer(s) planned to improve communications with successors, including specifying the documents successors needed for an extension and the relevant deadlines.

2.4 Remittances

The Bureau continues to examine banks and nonbanks under its supervisory authority for compliance with Regulation E, Subpart B (Remittance Rule).⁵ The Bureau also reviews for any UDAAPs in connection with remittance transfers.

2.4.1 Failure To Refund Fees and Taxes Upon Delayed Availability of Remitted Funds

Examiners found that one or more supervised entities violated the error resolution provisions of the Remittance Rule by failing to refund fees and, as allowed by law, taxes, to consumers when remitted funds were made available to designated recipients later than the date of availability stated in the institution's remittance disclosures and the delay was not due to one of the four exceptions specified in the Rule.

A remittance transfer provider's failure to make funds available to a designated recipient by the date of availability stated in the disclosures constitutes an error under the Remittance Rule, unless the delay was of the result of one of the four exceptions described in 12 CFR 1005.33(a)(1)(iv).⁶ Upon notice from a consumer of the delayed availability of funds, a remittance transfer provider must either refund the sender the

amount of funds provided by the sender in connection with the remittance transfer which was not properly transmitted or the amount appropriate to resolve the error, or make available to the designated recipient the amount appropriate to resolve the error at no additional cost to the sender or the designated recipient.⁷ In addition, the remittance transfer provider must refund to the sender any fees imposed in connection with the transfer by any party, and, to the extent not prohibited by law, any taxes collected on the remittance transfer.⁸

Examiners observed that one or more entities failed to refund to consumers fees and, as allowed by law, taxes, when funds were not made available to the designated recipients by the date disclosed by the institution due to a mistake on the part of a non-agent foreign payer institution. Because the delayed availability of funds did not result from one of the exceptions listed in 12 CFR 1005.33(a)(1)(iv), the senders were entitled to the remedies described in 12 CFR 1005.33(c)(2)(ii). Neither the relationship between a remittance transfer provider and the institution disbursing the funds to the designated recipient, nor the particular entity that is at fault for the delayed receipt of funds, is relevant to whether the remittance transfer provider must refund fees and taxes to the consumer. In response to examination findings, institutions are refunding any fees imposed and, to the extent not prohibited by law, taxes collected on the remittance transfer to the sender, where applicable.

3. Remedial Actions

3.1 Public Enforcement Actions

The Bureau's supervisory activities resulted in or supported the following public enforcement actions.

3.1.1 Cash Tyme

On February 5, 2019, the CFPB announced a settlement with Cash Tyme, a payday retail lender with outlets in seven States.⁹ The Bureau found that Cash Tyme violated the CFPB by:

- Failing to take adequate steps to prevent unauthorized charges;
- Failing to promptly monitor, identify, correct, and refund overpayments by consumers;
- Making collection calls to third parties named as references on

borrowers' loan applications that disclosed or risked disclosing the debts to those third parties, including to borrowers' places of employment as well as to third parties who were themselves harassed by such calls;

- Misrepresenting that it collected third-party references from borrowers on loan applications for verification purposes, when in fact it was using that information to make marketing calls to the references; and

- Advertising unavailable services, including check cashing, phone reconnections, and home telephone connections, on the storefronts' outdoor signage where such advertisements contained information that was likely to be deemed important by consumers and likely to affect their conduct or decision regarding visiting a Cash Tyme store.

The Bureau also found that Cash Tyme violated the Gramm-Leach-Bliley Act and Regulation P by failing to provide initial privacy notices to borrowers, and, as to customers in Kentucky, violated the Truth in Lending Act and Regulation Z when calculating and advertising annual percentage rates. Cash Tyme must, among other provisions, pay a \$100,000 civil money penalty.

3.1.2 Enova International, Inc.

On January 25, 2019, the Bureau announced a settlement with Enova International, Inc., an online lender based in Chicago, Illinois, that extends unsecured payday and installment loans, and lines of credit.¹⁰

The Bureau found that Enova violated the CFPB by debiting consumers' bank accounts without authorization. While consumers authorized Enova to deduct payments from certain accounts, the company in many instances debited different accounts that the consumers had not authorized it to use. The Bureau also found that Enova failed to honor loan extensions it granted to consumers.

Under the terms of the consent order, Enova is, among other things, barred from making or initiating electronic fund transfers without valid authorization and must pay a \$3.2 million civil money penalty.

3.1.3 State Farm Bank, FSB

On December 6, 2018, the Bureau announced a settlement with State Farm Bank, FSB, a Federal savings association

⁵ See 78 FR 30662 (May 22, 2013) (codified at 12 CFR 1005), available at <http://www.gpo.gov/fdsys/pkg/FR-2013-05-22/pdf/2013-10604.pdf>.

⁶ The four events are: (A) Extraordinary circumstances outside the remittance transfer provider's control that could not have been reasonably anticipated; (B) delays related to a necessary investigation or other special action by the remittance transfer provider or a third party as required by the provider's fraud screening procedures or in accordance with the Bank Secrecy Act, 31 U.S.C. 5311 *et seq.*, Office of Foreign Assets Control requirements, or similar laws or requirements; (C) the remittance transfer being made with fraudulent intent by the sender or any person acting in concert with the sender; and (D) the sender having provided the remittance transfer provider an incorrect account number or recipient institution identifier for the designated recipient's account or institution, provided that the remittance transfer provider meets certain other conditions.

⁷ 12 CFR 1005.33(c)(2)(ii)(A).

⁸ 12 CFR 1005.33(c)(2)(ii)(B).

⁹ See Cash Tyme Consent Order, available at <https://www.consumerfinance.gov/about-us/newsroom/consumer-financial-protection-bureau-settles-cash-tyme/>.

¹⁰ See Enova International, Inc. Consent Order, available at <https://www.consumerfinance.gov/about-us/newsroom/consumer-financial-protection-bureau-reaches-settlement-enova-international-inc/>.

headquartered in Bloomington, Illinois.¹¹

The Bureau found that State Farm Bank violated the Fair Credit Reporting Act, Regulation V, and the CFPB by obtaining consumer reports without a permissible purpose; furnishing to credit-reporting agencies (CRAs) information about consumers' credit that the bank knew or had reasonable cause to believe was inaccurate; failing to promptly update or correct information furnished to CRAs; furnishing information to CRAs without providing notice that the information was disputed by the consumer; and failing to establish and implement reasonable written policies and procedures regarding the accuracy and integrity of information provided to CRAs.

Under the terms of the consent order, State Farm Bank must not violate the Fair Credit Reporting Act or Regulation V and must implement and maintain reasonable written policies, procedures, and processes to address the practices at issue in the consent order and prevent future violations.

3.1.4 Santander Consumer USA, LLC

On November 20, 2018, the Bureau announced a settlement with Santander Consumer USA Inc., a consumer financial services company based in Dallas, Texas.¹²

The Bureau found that Santander violated the CFPB by not properly describing the benefits and limitations of its S-GUARD GAP product, which it offered as an add-on to its auto loan products. Santander also failed to properly disclose the impact on consumers of obtaining a loan extension, including by not clearly and prominently disclosing that the additional interest accrued during the extension period would be paid before any payments to principal when the consumer resumed making payments.

Under the terms of the consent order, Santander must, among other provisions, provide approximately \$9.29 million in restitution to certain consumers who purchased the add-on product, clearly and prominently disclose the terms of its loan extensions and the add-on product, and pay a \$2.5 million civil money penalty.

3.1.5 Cash Express, LLC

On October 24, 2018, the Bureau announced a settlement with Cash Express, LLC, a small-dollar lender based in Cookeville, Tennessee, that offers high-cost, short-term loans, such as payday and title loans, as well as check-cashing services.¹³

As described in the consent order, the Bureau found that Cash Express violated the CFPB's prohibition on deceptive acts or practices by threatening in collection letters that it would take legal action against consumers, even though the debts were past the date for suing on legal claims, and it was not Cash Express's practice to file lawsuits against these consumers. The Bureau also found that Cash Express violated the CFPB by misrepresenting that it might report negative credit information to consumer reporting agencies for late or missed payments, when the company did not actually report this information. The Bureau also found that Cash Express engaged in an abusive practice in violation of the CFPB by withholding funds during check-cashing transactions to satisfy outstanding amounts on prior loans, without disclosing this practice to the consumer during the initiation of the transaction.

The order requires Cash Express to pay approximately \$32,000 in restitution to consumers, and pay a \$200,000 civil money penalty.

4. Supervision Program Developments

4.1 Recent Bureau Rules and Guidance

4.1.1 Bulletin 2018-01: Changes to Types of Supervisory Communications

On September 25, 2018, the Bureau issued a bulletin¹⁴ to announce changes to how it articulates supervisory expectations to institutions in connection with supervisory events. The bulletin notes that the Bureau will continue to communicate findings to institutions in writing by way of examination reports and supervisory letters. However, effective immediately, those reports and letters will include two categories of findings that convey supervisory expectations.

Matters Requiring Attention (MRAs) will continue to be used by the Bureau to communicate to an institution's Board of Directors, senior management, or both, specific goals to be accomplished in order to correct violations of Federal consumer financial

law, remediate harmed consumers, and address weaknesses in the compliance management system (CMS) that the examiners found are directly related to violations of Federal consumer financial law.

A new findings category—Supervisory Recommendations (SRs)—will be used by the Bureau to recommend actions for management to consider taking if it chooses to address the Bureau's supervisory concerns related to CMS. SRs will be used when the Bureau has not identified a violation of Federal consumer financial law, but has observed weaknesses in CMS.

Neither MRAs nor SRs have been or are legally enforceable. The Bureau will, however, consider an institution's response in addressing identified violations of Federal consumer financial law, weaknesses in CMS, or other noted concerns when assessing an institution's compliance rating, or otherwise considering the risks that an institution poses to consumers and to markets. These risk considerations may be used by the Bureau when prioritizing future supervisory work or assessing the need for potential enforcement action.

4.1.2 Statement on Supervisory Practices Regarding Financial Institutions and Consumers Affected by a Major Disaster or Emergency

On September 14, 2018, the Bureau issued a statement¹⁵ highlighting the existing laws and regulations that can provide supervised entities regulatory flexibility to take certain actions that can benefit consumers in communities under stress and hasten recovery in light of major disasters or emergencies. In the statement, the Bureau also noted that it will consider the impact of major disasters or emergencies on supervised entities themselves when conducting supervisory activities.

4.1.3 Interagency Statement on the Role of Supervisory Guidance

On September 11, 2018, the Bureau, along with the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the National Credit Union Administration, and the Office of the Comptroller of the Currency issued a joint statement¹⁶ explaining the role of supervisory guidance and describing the agencies' approach to supervisory guidance.

¹¹ See State Farm Bank, FSB Consent Order, available at <https://www.consumerfinance.gov/about-us/newsroom/bureau-consumer-financial-protection-settles-state-farm-bank/>.

¹² See Santander Consumer USA, LLC Consent Order, available at <https://www.consumerfinance.gov/policy-compliance/enforcement/actions/santander-consumer-usa-inc/>.

¹³ See Cash Express, LLC Consent Order, available at <https://www.consumerfinance.gov/policy-compliance/enforcement/actions/cash-express-llc/>.

¹⁴ The bulletin can be found at: https://www.consumerfinance.gov/documents/6848/bcftp_bulletin-2018-01_changes-to-supervisory-communications.pdf.

¹⁵ The full statement can be found at: https://www.consumerfinance.gov/documents/6837/bcftp_statement-on-supervisory-practices_disaster-emergency.pdf.

¹⁶ The Interagency Statement can be found at: https://www.consumerfinance.gov/documents/6830/interagency-statement_role-of-supervisory-guidance.pdf.

Among other things, the joint statement confirms that supervisory guidance does not have the force and effect of law, and the agencies do not take enforcement actions based on supervisory guidance. The joint statement also explains that supervisory guidance outlines the agencies' supervisory expectations or priorities and articulates the agencies' general views regarding appropriate practices for a given subject area.

4.1.4 Updates to HMDA Small Entity Compliance Guide

On October 30, 2018, the Bureau updated the HMDA Small Entity Compliance Guide to reflect changes made by section 104(a) of the Economic Growth, Regulatory Relief, and Consumer Protection Act (signed into law on May 24, 2018) to the Home Mortgage Disclosure Act (HMDA). More details, including an executive summary and other resources for compliance, can be found at: <https://www.consumerfinance.gov/policy-compliance/guidance/implementation-guidance/hmda-implementation/>.¹⁷

5. Conclusion

The Bureau will continue to publish Supervisory Highlights to aid Bureau-supervised entities in their efforts to comply with Federal consumer financial law. The report shares information regarding general supervisory and examination findings (without identifying specific institutions, except in the case of public enforcement actions), communicates operational changes to the program, and provides a convenient and easily accessible resource for information on the Bureau's guidance documents.

6. Regulatory Requirements

This Supervisory Highlights summarizes existing requirements under the law, summarizes findings made in the course of exercising the Bureau's supervisory and enforcement authority, and is a non-binding general statement of policy articulating considerations relevant to the Bureau's exercise of its supervisory and enforcement authority. It is therefore exempt from notice and comment rulemaking requirements under the Administrative Procedure Act pursuant to 5 U.S.C. 553(b). Because no notice of proposed rulemaking is required, the

Regulatory Flexibility Act does not require an initial or final regulatory flexibility analysis. 5 U.S.C. 603(a), 604(a). The Bureau has determined that this Supervisory Highlights does not impose any new or revise any existing recordkeeping, reporting, or disclosure requirements on covered entities or members of the public that would be collections of information requiring OMB approval under the Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.*

Dated: February 25, 2019.

Kathleen L. Kraninger,

Director, Bureau of Consumer Financial Protection.

[FR Doc. 2019-04987 Filed 3-15-19; 8:45 am]

BILLING CODE 4810-AM-P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; AmeriCorps National Civilian Community Corps (NCCC) Project Sponsor Application

AGENCY: Corporation for National and Community Service (CNCS).

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, CNCS is soliciting comments concerning its proposed renewal of the AmeriCorps National Civilian Community Corps (NCCC) Service Project Application. A copy of the information collection request can be obtained by contacting the office listed in the addresses section of this notice.

DATES: Written comments must be submitted to the individual and office listed in the **ADDRESSES** section by May 17, 2019.

ADDRESSES: You may submit comments, identified by the title of the information collection activity, by any of the following methods:

(1) *By mail sent to:* Corporation for National and Community Service, Attention Jacob Sgambati, 250 E Street SW, Washington, DC 20525.

(2) By hand delivery or by courier to the CNCS mailroom at the mail address given in paragraph (1) above, between 9:00 a.m. and 4:00 p.m. Eastern Time, Monday through Friday, except federal holidays.

(3) Electronically through www.regulations.gov.

Comments submitted in response to this notice may be made available to the

public through regulations.gov. For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information or proprietary information. If you send an email comment, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. Please note that responses to this public comment request containing any routine notice about the confidentiality of the communication will be treated as public comment that may be made available to the public, notwithstanding the inclusion of the routine notice.

FOR FURTHER INFORMATION CONTACT:

Jacob Sgambati, 202-606-6839, or by email at jsgambati@cns.gov.

SUPPLEMENTARY INFORMATION:

Title of Collection: AmeriCorps NCCC Service Project Application.

OMB Control Number: 3045-0010.

Type of Review: Renewal.

Respondents/Affected Public:

Current/prospective AmeriCorps NCCC Project Sponsors.

Total Estimated Number of Annual Responses: 1,800.

Total Estimated Number of Annual Burden Hours: 17,100 hours.

Abstract: The AmeriCorps NCCC Service Project Application is completed by organizations interested in sponsoring an AmeriCorps NCCC team. Each year, AmeriCorps NCCC engages teams of members in projects in communities across the United States. Service projects, which typically last from six to eight weeks, address critical needs in natural and other disasters, infrastructure improvement, environmental stewardship and conservation, energy conservation, and urban and rural development.

CNCS seeks to renew and revise the current application. The application will be used in the same manner as the existing application. CNCS additionally seeks to continue using the current application until the revised application is approved by OMB. The current application is due to expire on July 31, 2019.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. 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

¹⁷ On August 31, 2018, the Bureau issued an interpretive and procedural rule to implement and clarify changes made by the Act. The full text of the Rule can be found at: <https://www.federalregister.gov/documents/2018/09/07/2018-19244/partial-exemptions-from-the-requirements-of-the-home-mortgage-disclosure-act-under-the-economic>.

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.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information. All written comments will be available for public inspection on *regulations.gov*.

Dated: March 12, 2019.

Jacob Sgambati,

Acting Deputy Director, NCCC.

[FR Doc. 2019-04915 Filed 3-15-19; 8:45 am]

BILLING CODE 6050-28-P

DEPARTMENT OF EDUCATION

[Docket No.: ED-2019-ICCD-0026]

Agency Information Collection Activities; Comment Request; Migrant Student Information Exchange (MSIX)

AGENCY: Office of Elementary and Secondary Education (OESE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing an extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before May 17, 2019.

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-2019-ICCD-0026. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at <http://www.regulations.gov> by selecting the Docket ID number or via postal mail,

commercial delivery, or hand delivery. If the regulations.gov site is not available to the public for any reason, ED will temporarily accept comments at ICDocketMgr@ed.gov. Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 550 12th Street SW, PCP, Room 9086, Washington, DC 20202-0023.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Maria Hishikawa, 202-260-1473.

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: Migrant Student Information Exchange (MSIX).

OMB Control Number: 1810-0683.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 46.

Total Estimated Number of Annual Burden Hours: 454,701.

Abstract: The U.S. Department of Education (ED) has a continued need to support existing regulations for the use of the Migrant Student Information Exchange (MSIX), a nationwide, electronic records exchange mechanism mandated under Title I, Part C of the Elementary and Secondary Education Act (ESEA), as amended. As a condition of receiving a grant of funds under the Migrant Education Program (MEP), each State educational agency (SEA) is required to collect, maintain, and submit minimum health and education-related data to MSIX within established time-frames. These regulations facilitate timely school enrollment, placement, and accrual of secondary course credits for migratory children and help us determine accurate migratory child counts and meet other MEP reporting requirements. The MEP is authorized under sections 1301-1309 in Title I, Part C of the ESEA. MSIX and the minimum data elements (MDEs) are authorized specifically under section 1308(b) of the ESEA. The burden hours and costs associated with this data collection are required to ensure that States implement and utilize MSIX for interstate migrant student records exchange, which will then enable the Department to meet the statutory mandate in section 1308(b) of the ESEA to facilitate the electronic exchange of MDEs by SEAs to address the educational and related needs of migratory children.

Dated: March 13, 2019.

Kate Mullan,

PRA Coordinator, Information Collection Clearance Program, Information Management Branch, Office of the Chief Information Officer.

[FR Doc. 2019-04979 Filed 3-15-19; 8:45 am]

BILLING CODE 4000-01-P

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 before April 17, 2019. 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: 1150; (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 8, 2019.

Theodore J. Garrish,

Acting General Counsel, United States Department of Energy.

[FR Doc. 2019–04992 Filed 3–15–19; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Biomass Research and Development Technical Advisory Committee

AGENCY: Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces an open meeting of the Biomass Research and Development Technical Advisory Committee under Section 9008(d) of the Food, Conservation, and Energy Act of 2008 amended by the Agricultural Act of 2014. The Federal Advisory Committee Act requires that agencies publish these notices in the **Federal Register**.

DATES: March 27, 2019; 8:30 a.m.–5:30 p.m. March 28, 2019; 8:00 a.m.–12:30 p.m.

ADDRESSES: DoubleTree Crystal City, 300 Army Navy Drive, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Dr. Ian Rowe, Designated Federal Officer for the Committee, Office of Energy Efficiency and Renewable Energy, U.S. Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585; at (202) 586–7720 or Email: Ian.Rowe@ee.doe.gov.

SUPPLEMENTARY INFORMATION:

Purpose of Meeting: To develop advice and guidance that promotes research and development leading to the production of biobased fuels and biobased products.

Tentative Agenda: Agenda will include the following:

- Update on USDA Biomass R&D Activities.
- Update on DOE Biomass R&D Activities.
- Presentations from government and industry that provide insights on the intersection of forest health and bioenergy growth.

Public Participation: In keeping with procedures, members of the public are welcome to observe the business of the Biomass Research and Development

Technical Advisory Committee. To attend the meeting and/or to make oral statements regarding any of the items on the agenda, you must contact Dr. Ian Rowe at (202) 586–7720 or Email: Ian.Rowe@ee.doe.gov at least 5 business days prior to the meeting. Members of the public will be heard in the order in which they sign up at the beginning of the meeting. Reasonable provision will be made to include the scheduled oral statements on the agenda. The Co-chairs of the Committee will make every effort to hear the views of all interested parties. If you would like to file a written statement with the Committee, you may do so either before or after the meeting. The Co-chairs will conduct the meeting to facilitate the orderly conduct of business.

Minutes: The summary of the meeting will be available for public review and copying at <http://biomassboard.gov/committee/meetings.html>.

Signed in Washington, DC, on March 12, 2019.

LaTanya Butler,

Deputy Committee Management Officer.

[FR Doc. 2019–04983 Filed 3–15–19; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[OE Docket No. EA–260–F]

Application To Export Electric Energy; CP Energy Marketing (US) Inc.

AGENCY: Office of Electricity, Department of Energy (DOE).

ACTION: Notice of application.

SUMMARY: CP Energy Marketing (US) Inc. (Applicant or CP Energy Marketing) has applied to renew its authorization to transmit electric energy from the United States to Canada pursuant to the Federal Power Act.

DATES: Comments, protests, or motions to intervene must be submitted on or before April 17, 2019.

ADDRESSES: Comments, protests, motions to intervene, or requests for more information should be addressed to: Office of Electricity, Mail Code: OE–20, U.S. Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585–0350. Because of delays in handling conventional mail, it is recommended that documents be transmitted by overnight mail, by electronic mail to Electricity.Exports@hq.doe.gov, or by facsimile to 202–586–8008.

SUPPLEMENTARY INFORMATION: The Department of Energy (DOE) regulates exports of electricity from the United States to a foreign country, pursuant to

sections 301(b) and 402(f) of the Department of Energy Organization Act (42 U.S.C. 7151(b) and 7172(f)). Such exports require authorization under section 202(e) of the Federal Power Act (16 U.S.C. 824a(e)).

On June 5, 2014, DOE issued Order No. EA-260-E, which authorized CP Energy Marketing to transmit electric energy from the United States to Canada as a power marketer for a five-year term using existing international transmission facilities. That authorization expires on June 5, 2019. On February 27, 2019, CP Energy Marketing filed an application with DOE for renewal of the export authorization contained in Order No. EA-260-E for an additional five-year term.

In its application, the Applicant states that it “does not own or control electric generation facilities or transmission facilities” and that it has no “obligation to serve native load within a franchised service area.” The electric energy that the Applicant proposes to export to Canada would be surplus energy purchased from third parties such as electric utilities and Federal power marketing agencies pursuant to voluntary agreements. The existing international transmission facilities to be utilized by the Applicant have previously been authorized by Presidential permits issued pursuant to Executive Order 10485, as amended, and are appropriate for open access transmission by third parties.

Procedural Matters: Any person desiring to be heard in this proceeding should file a comment or protest to the application at the address provided above. Protests should be filed in accordance with Rule 211 of the Federal Energy Regulatory Commission’s (FERC) Rules of Practice and Procedure (18 CFR 385.211). Any person desiring to become a party to this proceeding should file a motion to intervene at the above address in accordance with FERC Rule 214 (18 CFR 385.214). Five (5) copies of such comments, protests, or motions to intervene should be sent to the address provided above on or before the date listed above.

Comments and other filings concerning CP Energy Marketing’s application to export electric energy to Canada should be clearly marked with OE Docket No. EA-260-F. An additional copy is to be provided directly to both Colleen Smith, CP Energy Marketing (US) Inc., c/o Capital Power Corporation, 155 Federal Street, Suite 1200, Boston, MA 02110, and Peter P. Thiemann, Dentons US LLP, 1900 K Street NW, Washington, DC 20006.

A final decision will be made on this application after the environmental impacts have been evaluated pursuant to DOE’s National Environmental Policy Act Implementing Procedures (10 CFR part 1021) and after DOE determines that the proposed action will not have an adverse impact on the sufficiency of supply or reliability of the U.S. electric power supply system.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above, by accessing the program website at <http://energy.gov/node/11845>, or by emailing Angela Troy at Angela.Troy@hq.doe.gov.

Signed in Washington, DC, on March 11, 2019.

Christopher Lawrence,

*Management and Program Analyst,
Transmission Permitting and Technical
Assistance, Office of Electricity.*

[FR Doc. 2019-04990 Filed 3-15-19; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Proposed Subsequent Arrangement

AGENCY: National Nuclear Security Administration, Department of Energy.

ACTION: Proposed subsequent arrangement.

SUMMARY: This document is being issued under the authority of the Atomic Energy Act of 1954, as amended. The Department is providing notice of a proposed subsequent arrangement under the Agreement for Cooperation in the Peaceful Uses of Nuclear Energy between the United States of America and the European Atomic Energy Community.

DATES: This subsequent arrangement will take effect no sooner than April 2, 2019.

FOR FURTHER INFORMATION CONTACT:

Mr. Sean Oehlbert, Office of Nonproliferation and Arms Control, National Nuclear Security Administration, Department of Energy. Telephone: 202-586-3806 or email: sean.oehlbert@nnsa.doe.gov.

SUPPLEMENTARY INFORMATION: This proposed subsequent arrangement concerns the addition of Egypt, Indonesia, Morocco, Turkey, Ukraine, United Arab Emirates, United Kingdom, and Vietnam to the list of countries referred to in paragraph 2 of the Agreed Minute to the Agreement for Cooperation in the Peaceful Uses of Nuclear Energy between the United States of America and the European Atomic Energy Community (the

Agreement), listing countries eligible to receive retransfers under Article 8.1(C)(i) of the Agreement of low enriched uranium, non-nuclear material, equipment and source material transferred pursuant to the Agreement, and low enriched uranium produced through the use of nuclear material or equipment transferred pursuant to the Agreement, for nuclear fuel cycle activities other than the production of high enriched uranium. Paragraph 2 of the Agreed Minute to the Agreement provides that third countries on the U.S. advance consent list must have made effective non-proliferation commitments and must be a party to a nuclear cooperation agreement with the United States. Each of the countries being added to the U.S. advance consent list, except for the United Kingdom, meets these criteria. The United Kingdom will meet these criteria and be eligible to receive retransfers upon entry into force of the Agreement between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland for Cooperation in Peaceful Uses of Nuclear Energy.

Pursuant to the authority in section 131a. of the Atomic Energy Act of 1954, as delegated, I have determined that this proposed subsequent arrangement will not be inimical to the common defense and security of the United States of America.

Dated: March 5, 2019.

For the Department of Energy.

Brent K. Park,

*Deputy Administrator, Defense Nuclear
Nonproliferation.*

[FR Doc. 2019-04988 Filed 3-15-19; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Hanford

AGENCY: Department of Energy, Office of Environmental Management.

ACTION: Notice of open meeting: Correction.

SUMMARY: On February 6, 2019, the Department of Energy published a notice of open meeting announcing a meeting on April 10–11, 2019 of the Environmental Management Site-Specific Advisory Board, Hanford (84 FR 2193). This document makes a correction to that notice.

FOR FURTHER INFORMATION CONTACT:

Kristen Holmes, Federal Coordinator, Department of Energy Richland Operations Office, P.O. Box 550, H5-20, Richland, WA 99352; Phone: (509) 376–

5803; or Email: kristen.l.holmes@rl.doe.gov.

Corrections

In the **Federal Register** of February 6, 2019, in FR Doc. 2019–01140, on page 2193, please make the following correction:

In that notice under **DATES**, first column, second paragraph, the meeting dates have been changed. The original meeting dates were April 10–11, 2019. The new meeting dates are April 17–18, 2019.

Signed in Washington, DC, on March 13, 2019.

LaTanya Butler,

Deputy Committee Management Officer.

[FR Doc. 2019–04984 Filed 3–15–19; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Western Area Power Administration

Loveland Area Projects, Colorado River Storage Project, Central Arizona Project, Pacific Northwest-Pacific Southwest Intertie Project, and Parker-Davis Project—Rate Order No. WAPA–187

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of proposed extension of the WestConnect Point-to-Point Regional Transmission Service Participation Agreement formula rates.

SUMMARY: Western Area Power Administration (WAPA) proposes to extend its existing formula rates for on-peak and off-peak transmission service provided under the WestConnect Point-to-Point Regional Transmission Service Participation Agreement (WestConnect PA) through May 31, 2024. The existing rate schedule for this service, Rate Schedule WC–8, expires on May 31, 2019.

DATES: A consultation and comment period starts with the publication of this notice and will end on April 1, 2019. WAPA will accept written comments any time during the consultation and comment period.

ADDRESSES: Send written comments to: Mr. Ronald E. Moulton, Senior Vice President and Regional Manager, Desert Southwest Region, Western Area Power Administration, P.O. Box 6457, Phoenix, AZ 85005–6457, or email: dswpwrmrk@wapa.gov. WAPA will post information about the proposed formula rate extension and written comments received to its website at: <https://www.wapa.gov/regions/DSW/>

PowerMarketing/Pages/westconnect.aspx.

FOR FURTHER INFORMATION CONTACT:

Mr. Thomas Hackett, Rates Manager, Colorado River Storage Project, (801) 524–5503 or email: hackett@wapa.gov; Ms. Tina Ramsey, Rates Manager, Desert Southwest Region, (602) 605–2525 or email: dswpwrmrk@wapa.gov; or Mrs. Sheila D. Cook, Rates Manager, Rocky Mountain Region, (970) 461–7211 or email: scook@wapa.gov.

SUPPLEMENTARY INFORMATION: On December 15, 2014, the Federal Energy Regulatory Commission (FERC) approved Rate Schedule WC–8 under Rate Order No. WAPA–163 for a 5-year period through May 31, 2019.¹ This schedule applies to non-firm point-to-point transmission service provided under the WestConnect PA that uses WAPA's transmission facilities. In accordance with 10 CFR 903.23(a), WAPA is proposing to extend the existing formula rates under Rate Schedule WC–8 for the period of June 1, 2019 through May 31, 2024.

By Delegation Order No. 00–037.00B, effective November 19, 2016, the Secretary of Energy delegated: (1) The authority to develop power and transmission rates to WAPA's Administrator; (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary of Energy;² and (3) the authority to confirm, approve, and place into effect on a final basis, to remand or to disapprove such rates to FERC.

In accordance with 10 CFR 903.23(a), WAPA has determined that it is not necessary to hold public information or public comment forums for this action but is initiating a 14-day consultation and comment period. Written comments received by the end of the consultation and comment period will be considered by WAPA as part of its decision-making process. After considering comments, WAPA will take further action on the proposed formula rate extension consistent with 10 CFR 903.23(a).

Dated: March 4, 2019.

Mark A. Gabriel,
Administrator.

[FR Doc. 2019–04989 Filed 3–15–19; 8:45 am]

BILLING CODE 6450–01–P

¹ Order Confirming and Approving Rate Schedule on a Final Basis, FERC Docket No. EF14–8–000, 149 FERC ¶ 62,196 (2014).

² In Delegation Order No. 00–002.00Q, effective November 1, 2018, the Secretary of Energy also delegated to the Under Secretary of Energy the authority to confirm, approve, and place into effect on an interim basis power and transmission rates for WAPA.

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2014–0075; FRL–9990–78–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NESHAP for Municipal Solid Waste Landfills (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), NESHAP for Municipal Solid Waste Landfills (EPA ICR Number 1938.07, OMB Control Number 2060–0505), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through March 31, 2019. Public comments were previously requested, via the **Federal Register**, on May 30, 2018 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An agency may neither conduct nor sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before April 17, 2019.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OECA–2014–0075, to: (1) EPA online using www.regulations.gov (our preferred method), or by email to docket.oeca@epa.gov, or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460; and (2) OMB via email to oira_submission@omb.eop.gov. Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Patrick Yellin, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A,

Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 564-2970; fax number: (202) 564-0050; email address: yellin.patrick@epa.gov.

SUPPLEMENTARY INFORMATION:

Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at www.regulations.gov, or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202-566-1744. For additional information about EPA's public docket, visit: <http://www.epa.gov/dockets>.

Abstract: The NESHAP for Municipal Solid Waste Landfills (40 CFR part 63, subpart AAAAA) apply to existing and new municipal solid waste (MSW) landfills that have accepted waste since November 8, 1987 or have additional capacity for waste deposition, including those that operate as bioreactors, and the landfill either: (1) Is a major source or is collocated with a major source; or (2) is an area source with a design capacity of 2.5 million megagrams (Mg) and 2.5 million cubic meters (m³), and emits either equal to or greater than 50 tons per year of non-methane organic compounds (NMOC). New facilities include those that commenced construction or reconstruction after the date of proposal.

In general, all NESHAP standards require initial notifications, performance tests, and periodic reports by the owners/operators of the affected facilities. They are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. These notifications, reports, and records are essential in determining compliance, and are required of all affected facilities subject to the NESHAP. This information is being collected to assure compliance with 40 CFR part 63, subpart AAAAA.

Form Numbers: None.

Respondents/affected entities: Certain existing and new municipal solid waste (MSW) landfills that have accepted waste since November 8, 1987 or have additional capacity for waste deposition.

Respondent's obligation to respond: Mandatory (40 CFR 63, subpart AAAAA).

Estimated number of respondents: 1,151 (total).

Frequency of response: Initially, semiannually, and annually.

Total estimated burden: 35,200 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: \$3,170,000 (per year), which includes \$10,800 in annualized capital/startup and/or operation & maintenance costs.

Changes in the Estimates: There is a decrease in the number of responses and Capital/O&M costs in this ICR compared to the previous ICR. The change in burden and cost estimates occurred as a result of the 2016 NSPS (40 CFR part 60, subpart XXX) and Emissions Guidelines (40 CFR part 60, subpart Cf). Most of the burden previously attributed to the ICR for subpart AAAAA has been accounted for in the 2016 ICRs for subparts XXX (ICR 2498.03, OMB 2060-0697) and Cf (ICR 2522.02, OMB 2060-0720) to avoid duplication of burden for identical requirements. Additionally, the number of responses unique to the subpart AAAAA ICR has decreased as a result of improved estimates of the number of landfills subject to control requirements based on data used to support the 2016 ICRs.

There is an increase in the total estimated burden as currently identified in the OMB Inventory of Approved Burdens. This increase is not due to any program changes. There is an increase in the number of labor hours. This is to be consistent with per line item burden assumptions and number of sources subject to certain requirements related ICRs for subparts XXX (ICR 2498.03, OMB 2060-0697) and Cf (ICR 2522.02, OMB 2060-0720), including an increase in the number of new or modified sources. Additionally, labor hours were added to correct for an error which had previously missed the recordkeeping requirements for liquids addition.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2019-05018 Filed 3-15-19; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OAR-2015-0202; FRL-9991-03-OAR]

Proposed Information Collection Request; Comment Request; Recordkeeping and Reporting Related to E15 (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) is planning to submit an information collection request (ICR),

“Recordkeeping and Reporting Related to E15 (Renewal)” (EPA ICR No 2408.05, OMB Control No. 2060-0675) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. Before doing so, EPA is soliciting public comments on specific aspects of the proposed information collection as described below. This is a proposed extension of the ICR, which is currently approved through October 31, 2019. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Comments must be submitted on or before May 17, 2019.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA-HQ-OAR-2015-0202, online using www.regulations.gov (our preferred method), by email to a-and-r-docket@epa.gov, or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT:

James W. Caldwell, Compliance Division, Office of Transportation and Air Quality, 6405A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 343-9303; fax number: (202) 343-2802; email address: caldwell.jim@epa.gov.

SUPPLEMENTARY INFORMATION:

Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at www.regulations.gov or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202-566-1744. For additional information about EPA's public docket, visit <http://www.epa.gov/dockets>.

Pursuant to section 3506(c)(2)(A) of the PRA, EPA is soliciting comments and information to enable it to: (i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have

practical utility; (ii) evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, EPA will issue another **Federal Register** notice to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

Abstract: Under the Clean Air Act, EPA granted partial waivers that allow gasoline containing greater than 10 volume percent ethanol and up to 15 volume percent ethanol (E15) to be introduced into commerce for use in model year 2001 and newer light-duty motor vehicles, subject to certain conditions. EPA issued a final rule establishing several measures to deter the use of E15 in ineligible vehicles and equipment (misfueling). The rule (1) prohibits the use of gasoline containing more than 10 volume percent ethanol in vehicles and equipment that are not covered by the partial waiver decisions, (2) requires all E15 dispensers to have a specific label indicating eligible vehicles, (3) requires E15 and related product transfer documents to contain certain information, and (4) requires ethanol producers, gasoline refiners, blenders, and related parties to conduct a survey of retail stations to monitor compliance with these requirements and submit periodic reports. In addition, to comply with conditions in the partial waivers, each survey party must implement a misfueling mitigation plan. This ICR covers the associated recordkeeping and reporting requirements.

Form Numbers: None.

Respondents/affected entities: Ethanol producers and importers, gasoline refiners, importers, terminals, distributors, retailers, and wholesale purchaser-consumers.

Respondent's obligation to respond: Mandatory (40 CFR part 80).

Estimated number of respondents: 2,604 (total).

Frequency of response: On occasion, quarterly, annually.

Total estimated burden: 14,770 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: \$1,841,445 (per year), includes \$128,125 in annualized capital or operation & maintenance costs.

Changes in estimates: There is an increase of 1,500 hours in the total estimated respondent burden compared with the ICR currently approved by OMB. This increase is due to an adjustment to an hourly estimate and the addition of some burdens not addressed in the current ICR.

Dated: March 12, 2019.

Byron J. Bunker,

Director, Compliance Division, Office of Transportation and Air Quality, Office of Air and Radiation.

[FR Doc. 2019-05031 Filed 3-15-19; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OAR-2003-0120; FRL-9990-01-OAR]

Proposed Information Collection Request; Comment Request; National Volatile Organic Compound Emission Standards for Automobile Refinish Coatings

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) is planning to submit an information collection request (ICR), "National Volatile Organic Compound Emission Standards for Automobile Refinish Coatings" (EPA ICR No. 1765.09, OMB Control No. 2060-0353) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (PRA). Before doing so, the EPA is soliciting public comments on specific aspects of the proposed information collection as described below. This is a proposed extension of the ICR, which is currently approved through January 31, 2020. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Comments must be submitted on or before May 17, 2019.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA-HQ-OAR-2003-0120, online using <https://www.regulations.gov> (our preferred method), by email to a-and-r-docket@epa.gov, or by mail to: EPA Docket Center (EPA/DC), Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

The EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT:

Ms. Kim Teal, Office of Air and Radiation, Office of Air Quality Planning and Standards, Mail Code D243-04, Research Triangle Park, North Carolina 27711; telephone number: (919) 541-5580; fax number: (919) 541-4991; email address: teal.kim@epa.gov.

SUPPLEMENTARY INFORMATION:

Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at www.regulations.gov or in person at the EPA Docket Center (EPA/DC), EPA WJC West Building, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is (202) 566-1744. For additional information about the EPA's public docket, visit <https://www.epa.gov/dockets>.

Pursuant to section 3506(c)(2)(A) of the PRA, the EPA is soliciting comments and information to enable it to: (i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (ii) evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. The EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, the EPA will issue another **Federal Register** notice to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

Abstract: The EPA is required under section 183(e) of the Clean Air Act (CAA) to regulate volatile organic compound emissions from the use of consumer and commercial products. Pursuant to CAA section 183(e)(3), the EPA published a list of consumer and commercial products and a schedule for their regulation (60 FR 15264). Automobile refinish coatings were included on the list, and the standards for such coatings are codified at 40 CFR part 59, subpart B. The reports required under the standards enable the EPA to identify all coating and coating component manufacturers and importers in the United States and to determine which coatings and coating components are subject to the standards, based on dates of manufacture.

Form numbers: None.

Respondents/affected entities: Entities potentially affected by this action as respondents are manufacturers and importers of automobile refinish coatings and coating components. Manufacturers of automobile refinish coatings and coating components fall within standard industrial classification (SIC) 2851, "Paints, Varnishes, Lacquers, Enamels, and Allied Products," and North American Industry Classification System (NAICS) code 325510, "Paint and Coating Manufacturing." Importers of automobile refinish coatings and coating components fall within SIC 5198, "Wholesale Trade: Paints, Varnishes, and Supplies," NAICS code 422950, "Paint, Varnish, and Supplies Wholesalers," and NAICS code 444120, "Paint and Wallpaper Stores."

Respondent's obligation to respond: Mandatory, 40 CFR part 59, subpart B.

Estimated number of respondents: 4 (total).

Frequency of response: On occasion.

Total estimated burden: 14 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: \$924 (per year), includes \$0 annualized capital or operation and maintenance costs.

Changes in estimates: There is no increase in hours in the total estimated respondent burden compared with the ICR currently approved by OMB.

Dated: March 8, 2019.

David Cozzie,

Acting Director, Sector Policies and Programs Division, Office of Air Quality Planning and Standards.

[FR Doc. 2019-04982 Filed 3-15-19; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OECA-2014-0084; FRL-9989-98-OE]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NESHAP for Coke Oven Pushing, Quenching, and Battery Stacks (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), NESHAP for Coke Oven Pushing, Quenching, and Battery Stacks (EPA ICR Number 1995.07, OMB Control Number 2060-0521), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through March 31, 2019. Public comments were previously requested, via the **Federal Register**, on May 30, 2018 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An agency may neither conduct nor sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before April 17, 2019.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA-HQ-OECA-2014-0084, to: (1) EPA online using www.regulations.gov (our preferred method), or by email to docket.oeca@epa.gov, or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460; and (2) OMB via email to oira_submission@omb.eop.gov. Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Patrick Yellin, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A,

Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 564-2970; fax number: (202) 564-0050; email address: yellin.patrick@epa.gov.

SUPPLEMENTARY INFORMATION:

Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at www.regulations.gov or in person at the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202-566-1744. For additional information about EPA's public docket, visit: <http://www.epa.gov/dockets>.

Abstract: The National Emission Standards for Hazardous Air Pollutants (NESHAP) for Coke Oven Pushing, Quenching, and Battery Stacks (40 CFR part 63, subpart CCCCC) apply to pushing, soaking, quenching, and battery stacks on both existing and new coke oven batteries (coke plants) that are major sources of hazardous air pollutant (HAP) emissions. New facilities include those that commenced construction or reconstruction after the date of proposal. In general, all NESHAP standards require initial notifications, performance tests, and periodic reports by the owners/operators of the affected facilities. They are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. These notifications, reports, and records are essential in determining compliance with 40 CFR part 63, subpart CCCCC.

Form Numbers: None.

Respondents/affected entities: Owners or operators of coke oven batteries at coke plants that are a major source of HAP.

Respondent's obligation to respond: Mandatory (40 CFR 63, Subpart CCCCC).

Estimated number of respondents: 16 (total).

Frequency of response: Initially, occasionally, quarterly and semi-annual.

Total estimated burden: 27,200 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: \$3,240,000 (per year), which includes \$143,000 in annualized capital/startup and/or operation & maintenance costs.

Changes in the Estimates: There is an adjustment increase in the respondent burden as currently identified in the OMB Inventory of Approved Burdens.

This increase is not due to any program changes. The increase in estimated respondent burden is due to adjustment to more accurately reflect the burden associated with rule requirements for observations of opacity prior to pushing coke from an oven. The previous ICR included an assumption that the burden for one respondent could not be attributed to the rule based on voluntary monitoring conducted prior to the final rule, and included person-hrs for this activity based on the assumption that each coke plant has 2.8 batteries. This ICR estimates burden for all respondents and adjusts the person-hrs to reflect one hour per battery per coke plant per day, assuming 3.1 batteries per coke plant, based on new data provided by Agency experts and confirmed by industry representatives.

The total annual responses have decreased due to a decrease in the number of respondents, based on the closure of one facility in the past three years, as identified by Agency experts and confirmed by trade associations and facility representatives. There is also an adjustment decrease in operating and maintenance costs, which is due to the decrease in the number of respondents.

Finally, there is a decrease in Agency burden from the prior ICR, due to an adjustment to more accurately reflect the rule requirements for quarterly reporting, which apply only to coke plants utilizing by-product recovery ovens. The previous ICR included an assumption that all coke plants, including those with non-recovery batteries, would submit the quarterly report. This ICR includes the burden only for those coke plants using by-product recovery ovens.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2019-05008 Filed 3-15-19; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2019-0040; FRL-9989-77]

Pesticide Experimental Use Permit; Receipt of Application; Comment Request

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's receipt of application 45728-EUP-R from Taminco US LLC, requesting an experimental use permit (EUP) for chlormequat chloride. EPA has determined that the permit may be of

regional or national significance. Therefore, because of the potential significance, EPA is seeking comments on this application.

DATES: Comments must be received on or before April 17, 2019.

ADDRESSES: Submit your comments, identified by Docket Identification (ID) Number EPA-HQ-OPP-EPA-2019-0012, by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001.

- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at <http://www.epa.gov/dockets/contacts.html>. Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at <http://www.epa.gov/dockets>.

FOR FURTHER INFORMATION CONTACT:

Michael L. Goodis, 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?

This action is directed to the public in general. Although this action may be of particular interest to those persons who conduct or sponsor research on pesticides, EPA has not attempted to describe all the specific entities that may be affected by this action.

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through www.regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a

copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at <http://www.epa.gov/dockets/comments.html>.

3. *Environmental justice.* EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, EPA seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticide discussed in this document, compared to the general population.

II. What action is the Agency taking?

Under section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136c, EPA can allow manufacturers to field test pesticides under development. Manufacturers are required to obtain an EUP before testing new pesticides or new uses of pesticides if they conduct experimental field tests on more than 10 acres of land or more than one surface acre of water.

Pursuant to 40 CFR 172.11(a), EPA has determined that the following EUP application may be of regional or national significance, and therefore is seeking public comment on the EUP application:

Submitter: Taminco US LLC, (45728-EUP-R).

Pesticide Chemical: Chlormequat chloride.

Summary of Request: Taminco US LLC has submitted a request for a crop-destruct EUP for an end-use product, Adjust SL. Adjust SL contains the active ingredient chlormequat chloride which is a plant growth regulator. The EUP is applied via spray for use on wheat, barley, rye, oats, triticale and grasses grown for seed in the states of California, Indiana, Kansas, Kentucky, Michigan, North Dakota, and Oregon. The maximum quantity of Adjust SL to be used for the program is 14,000 fl oz gallons (over two seasons). The number of treated acres per year is 10 per state.

Following the review of the application and any comments and data received in response to this solicitation, EPA will decide whether to issue or deny the EUP request, and if issued, the conditions under which it is to be conducted. Any issuance of an EUP will be announced in the **Federal Register**.

Authority: 7 U.S.C. 136 *et seq.*

Dated: February 27, 2019.

Delores Barber,

Director, Information Technology and Resources Management Division, Office of Pesticide Programs.

[FR Doc. 2019-04974 Filed 3-15-19; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2019-0039; FRL-9989-78]

Pesticide Product Registration; Receipt of Applications for New Active Ingredients

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received applications to register pesticide products containing active ingredients not included in any currently registered pesticide products. Pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is hereby providing notice of receipt and opportunity to comment on these applications.

DATES: Comments must be received on or before April 17, 2019.

ADDRESSES: Submit your comments, identified by the Docket Identification (ID) Number and the File Symbol of interest as shown in the body of this document, by one of the following methods:

- **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

- **Mail:** OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001.

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

Additional instructions on commenting or visiting the docket, along with more information about

dockets generally, is available at <http://www.epa.gov/dockets>.

FOR FURTHER INFORMATION CONTACT:

Michael Goodis, Registration Division (7505P), main telephone number: (703) 305-7090, email address: RDfRNotices@epa.gov; The mailing address for each contact person is: Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001. As part of the mailing address, include the contact person's name, division, and mail code. The division to contact is listed at the end of each pesticide petition summary.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

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

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

B. What should I consider as I prepare my comments for EPA?

1. **Submitting CBI.** Do not submit this information to EPA through [regulations.gov](http://www.regulations.gov) or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. **Tips for preparing your comments.** When preparing and submitting your comments, see the commenting tips at <http://www.epa.gov/dockets/comments.html>.

II. Registration Applications

EPA has received applications to register pesticide products containing active ingredients not included in any currently registered pesticide products. Pursuant to the provisions of FIFRA section 3(c)(4) (7 U.S.C. 136a(c)(4)), EPA is hereby providing notice of receipt and opportunity to comment on these applications. Notice of receipt of these applications does not imply a decision by the Agency on these applications.

III. New Active Ingredients

1. **EPA Registration Number:** 7969-UNA. **Docket ID number:** EPA-HQ-OPP-2018-0002. **Applicant:** BASF Corporation, 26 Davis Drive, P.O. Box 13528, Research Triangle Park, North Carolina 27709-3528. **Active ingredients:** Mefentrifluconazole, Pyraclostrobin, and Fluxapyroxad. **Product type:** Fungicide. **Proposed uses:** Beans and peas, citrus, corn seed, field corn, popcorn, and sweet corn, peanut, potato, rapeseed (canola), small grains, sorghum and millet, soybean, and sugar beet. **Contact:** RD.

2. **EPA Registration Number:** 7969-UNE. **Docket ID number:** EPA-HQ-OPP-2018-0002. **Applicant:** BASF Corporation, 26 Davis Drive, P.O. Box 13528, Research Triangle Park, North Carolina 27709-3528. **Active ingredient:** Mefentrifluconazole. **Product type:** Fungicide. **Proposed uses:** Cereals, citrus, grape, legumes, peanuts, pome fruits, potato, rapeseed (canola), stone fruits, sugar beet, and tree nuts; seed treatment use on buckwheat, corn seed, field corn, popcorn, and sweet corn, millet, oats, rye, sorghum, soybean, triticale, and wheat seeds; turfgrass use sites including golf courses, institutional, commercial, and municipal lawns, parks, cemeteries, and sod farms, nonturfgrass areas (including landscape beds, stands of trees) within recreational turfgrass areas; ornamental use sites (including containers, greenhouses, lathhouses, and shadehouses, outdoor nurseries, including container, bench, flat, plug, bed-grown or field-grown ornamentals), forest and conifer nurseries, and plantations, retail nurseries, and ornamentals found in interiorscapes, golf courses, recreational landscapes, and residential and commercial landscapes. **Contact:** RD.

3. **EPA Registration Number:** 7969-UNI. **Docket ID number:** EPA-HQ-OPP-2018-0002. **Applicant:** BASF Corporation, 26 Davis Drive, P.O. Box 13528, Research Triangle Park, North Carolina 27709-3528. **Active ingredient:** Mefentrifluconazole. **Product type:** Fungicide. **Proposed uses:** Beans and

peas, citrus, corn seed, field corn, popcorn, and sweet corn, peanut, potato, rapeseed (canola), small grains, sorghum and millet, soybean, and sugar beet. *Contact:* RD.

4. *EPA Registration Number:* 7969–UNL. *Docket ID number:* EPA–HQ–OPP–2018–0002. *Applicant:* BASF Corporation, 26 Davis Drive, P.O. Box 13528, Research Triangle Park, North Carolina 27709–3528. *Active ingredient:* Mefentrifluconazole. *Product type:* Fungicide. *Proposed uses:* Seed treatment on crops: Barley, buckwheat, field corn, popcorn, and sweet corn, millet, oats, rye, sorghum, soybean, triticale, and wheat. *Contact:* RD.

5. *EPA Registration Number:* 7969–UNO. *Docket ID number:* EPA–HQ–OPP–2018–0002. *Applicant:* BASF Corporation, 26 Davis Drive, P.O. Box 13528, Research Triangle Park, North Carolina 27709–3528. *Active ingredient:* Mefentrifluconazole and Pyraclostrobin. *Product type:* Fungicide. *Proposed uses:* Beans and peas, citrus, corn seed, field corn, popcorn, and sweet corn, peanut, potato, rapeseed (canola), small grains, sorghum and millet, soybean, and sugar beet. *Contact:* RD.

6. *EPA Registration Number:* 7969–URR. *Docket ID number:* EPA–HQ–OPP–2018–0002. *Applicant:* BASF Corporation, 26 Davis Drive, P.O. Box 13528, Research Triangle Park, North Carolina 27709–3528. *Active ingredient:* Mefentrifluconazole. *Product type:* Fungicide. *Proposed uses:* Beans and peas, citrus, corn seed, field corn, popcorn, and sweet corn, peanut, potato, rapeseed (canola), small grains, sorghum and millet, soybean, and sugar beet. *Contact:* RD.

7. *EPA Registration Number:* 59639–EGE. *Docket ID number:* EPA–HQ–OPP–2018–0038. *Applicant:* Valent U.S.A. LLC, 1600 Riviera Avenue, Suite 200, Walnut Creek, CA 94596. *Product name:* V–10417 FS Fungicide. *Active ingredient:* Fungicide—Ethaboxam at 7.07%, metalaxyl 1.89%, Inpyrfluxam at 4.71%. *Proposed use:* Seed treatment use on legume vegetable crop group 6, except cowpea and field pea. *Contact:* RD.

8. *EPA Registration Number:* 59639–EGG. *Docket ID number:* EPA–HQ–OPP–2018–0038. *Applicant:* Valent U.S.A. LLC, 1600 Riviera Avenue, Suite 200, Walnut Creek, CA 94596. *Product name:* S–2399 Technical Fungicide. *Active ingredient:* Fungicide—Inpyrfluxam at 97.4%. *Proposed uses:* Apple, corn (field, pop and sweet), peanut, rice, soybean and sugar beet. Seed treatment uses on legume vegetable crop group 6, cereal grain crop group 15, rapeseed crop subgroup 20A and sugar beet. *Contact:* RD.

9. *EPA Registration Number:* 59639–EGN. *Docket ID number:* EPA–HQ–OPP–2018–0038. *Applicant:* Valent U.S.A. LLC, 1600 Riviera Avenue, Suite 200, Walnut Creek, CA 94596. *Product name:* S–2399 2.84 SC Fungicide. *Active ingredient:* Fungicide—Inpyrfluxam at 31.25%. *Proposed uses:* Apple, corn (field, pop and sweet), peanut, rice, soybean and sugar beet. *Contact:* RD.

10. *EPA Registration Number:* 59639–EGR. *Docket ID number:* EPA–HQ–OPP–2018–0038. *Applicant:* Valent U.S.A. LLC, 1600 Riviera Avenue, Suite 200, Walnut Creek, CA 94596. *Product name:* S–2399 3.2 FS Fungicide. *Active ingredient:* Fungicide—Inpyrfluxam at 34.05%. *Proposed uses:* Seed treatment uses on cereal grains crop group 15, legume vegetables crop group 6, rapeseed crop subgroup 20A, and sugar beet. *Contact:* RD.

Authority: 7 U.S.C. 136 *et seq.*

Dated: February 27, 2019.

Delores Barber,

Director, Information Technology and Resources Management Division, Office of Pesticide Programs.

[FR Doc. 2019–04973 Filed 3–15–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2014–0098; FRL–9990–65–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NESHAP for Nine Metal Fabrication and Finishing Sources (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), NESHAP for Nine Metal Fabrication and Finishing Sources (EPA ICR Number 2298.05, OMB Control Number 2060–0622), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through March 31, 2019. Public comments were previously requested, via the **Federal Register**, on May 30, 2018 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An agency may neither conduct nor sponsor, and a

person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before April 17, 2019.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OECA–2014–0098, to: (1) EPA online using www.regulations.gov (our preferred method), or by email to docket.oeca@epa.gov, or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460; and (2) OMB via email to oira_submission@omb.eop.gov. Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Patrick Yellin, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 564–2970; fax number: (202) 564–0050; email address: yellin.patrick@epa.gov.

SUPPLEMENTARY INFORMATION: Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at www.regulations.gov, or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit: <http://www.epa.gov/dockets>.

Abstract: The National Emission Standards for Hazardous Air Pollutants (NESHAP), for Nine Metal Fabrication and Finishing Area Sources (40 CFR part 63, subpart XXXXXX) apply to owners or operators of any existing or new metal fabrication and finishing facility that is an area source of hazardous air pollutant (HAP) emissions and uses or has the potential to emit metal fabrication or finishing metal HAP (MFHAP), defined to be the compounds of cadmium, chromium, lead, manganese, and nickel, or any of these metals in the elemental form with the exception of lead. The affected sources consist of several types of metal

fabrication and finishing processes, including any abrasive blasting, metalworking (which includes machining, and dry grinding and dry polishing with machines), spray painting, and welding operations. New facilities include those that commenced construction or reconstruction after the date of proposal. In general, all NESHAP standards require initial notifications, performance tests, and periodic reports by the owners/operators of the affected facilities. They are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. These notifications, reports, and records are essential in determining compliance, and are required of all affected facilities subject to NESHAP. This information is being collected to assure compliance with 40 CFR part 63, subpart XXXXXX.

Form Numbers: None.

Respondents/affected entities:

Owners and operators of facilities in the nine metal fabrication and finishing source categories.

Respondent's obligation to respond:

Mandatory (40 CFR part 63, subpart XXXXXX).

Estimated number of respondents:

5,800 (total).

Frequency of response: Initially, occasionally and annually.

Total estimated burden: 39,000 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: \$4,440,000 (per year), which includes \$0 for annualized capital/startup and/or operation & maintenance costs.

Changes in the Estimates: There is an adjustment increase in the labor hours and cost in this ICR compared to the previous ICR. This is due to the addition of burden hours to more accurately account for the time spent by existing facilities to re-familiarize themselves annually with the rule requirements.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2019-05017 Filed 3-15-19; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2017-0751; FRL-9989-68]

Interim Registration Review Decisions and Case Closures for Several Pesticides; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of EPA's interim registration review decision for the following chemicals: Ammonia and Ammonium Sulfate, Azoxystrobin, Benfluralin, Chloropropham, Clomazone, Cytokinins, Dichlobenil, Diflufenzopyr and Diflufenzopyr-sodium, Fenhexamid, Fluopicolide, Fluridone, Indole-3-Butyric Acid, Indoxacarb, Naphthenate Salts, Nuranone, Prometryn, Spinetoram, Spinosad, Trifloxystrobin, and (Z)-9-tricosene. It also announces the amended interim decisions for Ethalfluralin and Hexazinone. In addition, it announces the closure of the registration review case for triforine because the last U.S. registrations for this pesticide have been canceled.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general and may be of interest to a wide range of stakeholders including environmental, human health, farm worker, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the pesticide specific contact person listed under **FOR FURTHER INFORMATION CONTACT**.

For pesticide specific information, contact: The Chemical Review Manager for the pesticide of interest identified in the Table in Unit IV.

For general information on the registration review program, contact: Dana Friedman, Pesticide Re-Evaluation

Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001; telephone number: (703) 347-8827; email address: friedman.dana@epa.gov.

II. Background

Registration review is EPA's periodic review of pesticide registrations to ensure that each pesticide continues to satisfy the statutory standard for registration, that is, the pesticide can perform its intended function without unreasonable adverse effects on human health or the environment. As part of the registration review process, the Agency has completed interim decisions for all pesticides listed in the Table in Unit IV. Through this program, EPA is ensuring that each pesticide's registration is based on current scientific and other knowledge, including its effects on human health and the environment.

III. Authority

EPA is conducting its registration review of the chemicals listed in the Table in Unit IV pursuant to section 3(g) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Procedural Regulations for Registration Review at 40 CFR part 155, subpart C. Section 3(g) of FIFRA provides, among other things, that the registrations of pesticides are to be reviewed every 15 years. Under FIFRA, a pesticide product may be registered or remain registered only if it meets the statutory standard for registration given in FIFRA section 3(c)(5) (7 U.S.C. 136a(c)(5)). When used in accordance with widespread and commonly recognized practice, the pesticide product must perform its intended function without unreasonable adverse effects on the environment; that is, without any unreasonable risk to man or the environment, or a human dietary risk from residues that result from the use of a pesticide in or on food.

IV. What action is the agency taking?

Pursuant to 40 CFR 155.58, this notice announces the availability of EPA's interim registration review decisions for the pesticides shown in the following table. The interim registration review decisions are supported by rationales included in the docket established for each chemical.

TABLE—REGISTRATION REVIEW INTERIM DECISIONS BEING ISSUED

Registration review case name and No.	Docket ID No.	Chemical review manager and contact information
Ammonia and Ammonium Sulfate, Case Numbers 7440 & 5073.	EPA-HQ-OPP-2012-0684	Stephen Savage, savage.stephen@epa.gov , (703) 347-0345.
Azoxystrobin, Case Number 7020	EPA-HQ-OPP-2009-0835	Veronica Dutch, dutch.veronica@epa.gov , (703) 308-8585.
Benfluralin, Case 2030	EPA-HQ-OPP-2011-0931	Michelle Nolan, nolan.michelle@epa.gov , (703) 347-0258.
Chlorpropham, Case 0271	EPA-HQ-OPP-2010-0923	Marianne Mannix, mannix.marianne@epa.gov , (703) 347-0275.
Clomazone, Case 7203	EPA-HQ-OPP-2006-0113	Tiffany Green, green.tiffany@epa.gov , (703) 347-0314.
Cytokininsm, Case 4107	EPA-HQ-OPP-2012-0671	Daniel Schoeff, schoeff.daniel@epa.gov , (703) 347-0143.
Dichlobenil, Case 0263	EPA-HQ-OPP-2012-0395	Nathan Sell, sell.nathan@epa.gov , (703) 347-8020.
Diffufenzopyr and Diffufenzopyr-sodium, Case 7246	EPA-HQ-OPP-2011-0911	Jill Bloom, bloom.jill@epa.gov , (703) 308-8019.
Ethalfuralin, Case 2260	EPA-HQ-OPP-2011-0094	Patricia Biggio, biggio.patricia@epa.gov , (703) 347-0547.
Fenhexamid, Case 7027	EPA-HQ-OPP-2013-0187	Susan Bartow, bartow.susan@epa.gov , (703) 603-0065.
Fluopicolide, Case 7055	EPA-HQ-OPP-2013-0037	Eric Fox, fox.ericm@epa.gov , (703) 347-0104.
Fluridone, Case 7200	EPA-HQ-OPP-2009-0160	Leigh Rimmer, rimmer.leigh@epa.gov , (703) 347-0553.
Hexazinone Case 0266	EPA-HQ-OPP-2009-0755	Melanie Biscoe, biscoe.melanie@epa.gov , (703) 305-7106.
Indole-3-Butyric Acid (IBA), Case 2330	EPA-HQ-OPP-2010-0608	Seiichi Murasaki, murasaki.seiichi@epa.gov , (703) 347-0163.
Indoxacarb, Case 7613	EPA-HQ-OPP-2013-0367	Moana Appleyard, appleyard.moana@epa.gov , (703) 308-8175.
Naphthenate Salts, Case 3099	EPA-HQ-OPP-2010-0455	Rachel Ricciardi, ricciardi.rachel@epa.gov , (703) 347-0465.
Nuranone, Case 4113	EPA-HQ-OPP-2012-0126	Susanne Cerrelli, cerrelli.susanne@epa.gov , (703) 308-8077.
Prometryn, Case 0467	EPA-HQ-OPP-2013-0032	Christina Scheltema, scheltema.christina@epa.gov , (703) 308-2201.
Spinetoram, Case 7448	EPA-HQ-OPP-2011-0666	Jordan Page, page.jordan@epa.gov , (703) 347-0467.
Spinosad, Case 7421	EPA-HQ-OPP-2011-0667	Jordan Page, page.jordan@epa.gov , (703) 347-0467.
Trifloxystrobin, Case 7028	EPA-HQ-OPP-2013-0074	Samantha Thoma, thomas.samantha@epa.gov , (703) 347-0514.
(Z)-9-tricosene (Muscalure), Case 4112	EPA-HQ-OPP-2010-0925	Alexandra Boukedes, boukedes.alexandra@epa.gov , (703) 347-0305.

The proposed interim registration review decisions for the chemicals in the table above were posted to the docket and the public was invited to submit any comments or new information. EPA addressed the comments or information received during the 60-day comment period for the proposed interim decisions in the discussion for each pesticide listed in the table. Comments from the 60-day comment period that were received may or may not have affected the Agency's interim decision. Pursuant to 40 CFR 155.58(c), the registration review case docket for the chemicals listed in the Table will remain open until all actions required in the interim decision have been completed.

This document also announces the posting of the amended interim decisions for ethalfuralin and hexazinone. The original interim decision for ethalfuralin was published on December 15, 2017 (82 FR 59606) (FRL-9970-54) and the original interim decision for hexazinone as published on February 27, 2018 (83 FR 8472) (FRL-9973-09). Following issuance of these

decisions, the agency received information that resulted in it amending the required label modifications. These modifications are expected to allow applicators greater flexibility, while not affecting the agency's overall risk management determinations.

This document also announces the closure of the registration review case for triforine (Case 2720, Docket ID Number EPA-HQ-OPP-2015-0853) because the last U.S. registrations for this pesticide have been canceled. Background on the registration review program is provided at: <http://www.epa.gov/pesticide-reevaluation>.

Authority: 7 U.S.C. 136 *et seq.*

Dated: March 5, 2019.

Charles Smith,

Acting Director, Pesticide Re-Evaluation Division, Office of Pesticide Programs.

[FR Doc. 2019-04970 Filed 3-15-19; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OECA-2014-0088; FRL-9990-09-OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NESHAP for Refractory Products Manufacturing (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), NESHAP for Refractory Products Manufacturing (EPA ICR Number 2040.07, OMB Control Number 2060-0515), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through March 31, 2019. Public comments were previously requested via the **Federal Register** on

May 30, 2018 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An agency may neither conduct nor sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before April 17, 2019.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA-HQ-OECA-2014-0088, to: (1) EPA online using www.regulations.gov (our preferred method), or by email to docket.oeca@epa.gov, or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460; and (2) OMB via email to oira_submission@omb.eop.gov. Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT:

Patrick Yellin, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 564-2970; fax number: (202) 564-0050; email address: yellin.patrick@epa.gov.

SUPPLEMENTARY INFORMATION:

Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at www.regulations.gov or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202-566-1744. For additional information about EPA's public docket, visit: <http://www.epa.gov/dockets>.

Abstract: The National Emission Standards for Hazardous Air Pollutants (NESHAP) for Refractory Products Manufacturing (40 CFR part 63, subpart SSSSS) apply to each refractory products manufacturing facility which produces refractory bricks, refractory shapes, monolithics, kiln furniture, crucibles, and other materials used as linings for boilers, kilns, and other

processing units and equipment where extreme temperature, corrosions, and abrasion would destroy other materials. These regulations apply to existing facilities and new facilities that manufacture refractory products and use organic hazardous air pollutant (HAP), chromium refractory, and clay refractory products. New facilities include those that commenced construction, modification or reconstruction after the date of proposal. In general, all NESHAP standards require initial notifications, performance tests, and periodic reports by the owners/operators of the affected facilities. They are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. These notifications, reports, and records are essential in determining compliance, and are required of all affected facilities subject to NESHAP. This information is being collected to assure compliance with 40 CFR part 63, subpart SSSSS.

Form Numbers: None.

Respondents/affected entities: Refractory products manufacturing facilities.

Respondent's obligation to respond:

Estimated number of respondents: 8 (total).

Frequency of response: Initially, occasionally and semiannually.

Total estimated burden: 306 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: \$37,800 (per year), includes \$3,040 in annualized capital/startup and/or operation & maintenance costs.

Changes in the Estimates: The decrease in burden from the most-recently approved ICR is not due to any program changes. The decrease in burden is due to correction of a mathematical error in the prior ICR, which inadvertently double-counted the burden for respondents to read and re-familiarize themselves with the rule requirements annually. This ICR updates the burden estimate for this requirement from 4.5 hours to 0.5 hours per respondent. The overall result is a decrease in the burden hours. There was no change in the capital/startup and O&M costs.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2019-05010 Filed 3-15-19; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OECA-2014-0081; FRL-9989-97-OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NESHAP for Reinforced Plastic Composites Production (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), NESHAP for Reinforced Plastic Composites Production (EPA ICR No. 1976.07, OMB Control No. 2060-0509), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through March 31, 2019. Public comments were previously requested via the **Federal Register** on May 30, 2018 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An agency may neither conduct nor sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before April 17, 2019.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA-HQ-OECA-2014-0081, to: (1) EPA online using www.regulations.gov (our preferred method), or by email to docket.oeca@epa.gov, or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460; and (2) OMB via email to oira_submission@omb.eop.gov. Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT:

Patrick Yellin, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A,

Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 564-2970; fax number: (202) 564-0050; email address: yellin.patrick@epa.gov.

SUPPLEMENTARY INFORMATION:

Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at www.regulations.gov, or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202-566-1744. For additional information about EPA's public docket, visit: <http://www.epa.gov/dockets>.

Abstract: The National Emission Standards for Hazardous Air Pollutants (NESHAP) for Reinforced Plastic Composites (RPC) Production (40 CFR part 63, subpart WWWW) apply to both existing facilities and new facilities with reinforced plastic composites (RPC) production operations and processes. New facilities include those that commenced construction or reconstruction after the date of proposal.

In general, all NESHAP standards require initial notifications, performance tests, and periodic reports by the owners/operators of the affected facilities. They are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. These notifications, reports, and records are essential in determining compliance with 40 CFR part 63, subpart WWWW.

Form Numbers: None.

Respondents/affected entities: Facilities with RPC production operations and processes.

Respondent's obligation to respond: Mandatory (40 CFR part 63, subpart WWWW).

Estimated number of respondents: 448 (total).

Frequency of response: Initially, occasionally, and semiannually.

Total estimated burden: 14,800 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: \$2,160,000 (per year), which includes \$468,000 annualized capital/startup and/or operation & maintenance costs.

Changes in the Estimates: The decrease in burden from the most-recently approved ICR is not due to any program changes. The change in the burden and cost estimates occurred because the total number of respondents

has decreased due to consolidation within the industry, and no new respondents are anticipated over the next three years of this ICR. The decrease in the number of existing and new respondents also results in a reduced number of total annual responses; this ICR reduces the number of responses associated with submittal of exceedance reports from existing respondents and excludes responses associated with the submittal of initial notifications or performance test plans or results that were previously only required from new respondents. Additionally, there is a decrease in the Agency burden as this ICR removes the burden associated with review of submitted initial notifications and materials related to performance tests, which are only applicable to new respondents. There is also an adjustment decrease in the capital/startup and O&M costs due to the reduced number of respondents.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2019-05007 Filed 3-15-19; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2019-0045; FRL-9989-79]

Pesticide Product Registration; Receipt of Applications for New Uses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received applications to register new uses for pesticide products containing currently registered active ingredients. Pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is hereby providing notice of receipt and opportunity to comment on these applications.

DATES: Comments must be received on or before April 17, 2019.

ADDRESSES: Submit your comments, identified by the Docket Identification (ID)

Number and the File Symbol or EPA Registration Number of interest as shown in the body of this document, by one of the following methods:

- **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

- **Mail:** OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001.

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

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

FOR FURTHER INFORMATION CONTACT:

Michael Goodis, Registration Division (7505P), main telephone number: (703) 305-7090, email address:

RDfRNtices@epa.gov. The mailing address for each contact person is:

Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001. As part of the mailing address, include the contact person's name, division, and mail code. The division to contact is listed at the end of each application summary.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

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

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

B. What should I consider as I prepare my comments for EPA?

1. **Submitting CBI.** Do not submit this information to EPA through [regulations.gov](http://www.regulations.gov) or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI

must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at <http://www.epa.gov/dockets/comments.html>.

II. Registration Applications

EPA has received applications to register new uses for pesticide products containing currently registered active ingredients. Pursuant to the provisions of FIFRA section 3(c)(4) (7 U.S.C. 136a(c)(4)), EPA is hereby providing notice of receipt and opportunity to comment on these applications. Notice of receipt of these applications does not imply a decision by the Agency on these applications.

III. New Uses

1. *EPA Registration Number:* 524–617. *Docket ID number:* EPA–HQ–OPP–2018–0260. *Applicant:* Monsanto Company, 1300 I St. NW, Suite 450 East, Washington, DC 20052. *Active ingredient:* Dicamba. *Product type:* Herbicide. *Proposed use:* Corn, grain; corn, stover; corn, forage). *Contact:* RD.

2. *EPA Registration Numbers:* 1021–1771, 1021–1772, 1021–2560, 1021–2616. *Docket ID number:* EPA–HQ–OPP–2018–0579. *Applicant:* McLaughlin (MGK). *Active ingredient:* Pyrethrin. *Product type:* Insecticide. *Proposed Uses:* Bananas, plantains and tobacco on growing crops and bananas and plantains as a post-harvest dip. *Contact:* RD.

3. *EPA File Symbol:* 6704–OL. *Docket ID number:* EPA–HQ–OPP–2018–0847. *Applicant:* United States Fish and Wildlife Service, Arlington Square Building, MS 725, Washington DC, 20240. *Active ingredient:* Carbon dioxide. *Product type:* Piscicide. *Proposed Use:* To remove nuisance fish species from ponds and lakes (under ice application) and in tributaries as a chemical barrier to prevent invasion of Asian carp into the Great Lakes. *Contact:* RD.

4. *EPA Registration Numbers:* 8033–20; 8033–23; 8033–36; 8033–95; 8033–106. *Docket ID number:* EPA–HQ–OPP–2018–0784. *Applicant:* Nippon Soda Co. Ltd., 88 Pine Street, 14th Floor, New York, NY 10005. *Active ingredient:* Acetamiprid. *Product type:* Insecticide. *Proposed Use:* Tropical & subtropical fruit subgroup 24B; stone fruit group 12–12; tree nut group 14–12; rapeseed subgroup 20A; cottonseed subgroup 20C; leafy vegetable group 4–16; brassica head & stem vegetable group 5–

16; leaf petiole vegetable subgroup 22B; celtuce; Florence fennel; greenhouse pepper; and kohlrabi. *Contact:* RD.

5. *EPA Registration Number:* 62097–41. *Docket ID number:* EPA–HQ–OPP–2018–0785. *Applicant:* Fine Agrochemical, Ltd, Hill End House, Whittington, Worcester, WRS 2RQ, UK. *Active ingredient:* Prohexadione Calcium. *Product type:* Plant Growth Regulator. *Proposed use:* Alfalfa inter seeded corn. *Contact:* Fungicide Herbicide Branch.

Authority: 7 U.S.C. 136 *et seq.*

Dated: March 6, 2019.

Delores Barber,

Director, Information Technology and Resources Management Division, Office of Pesticide Programs.

[FR Doc. 2019–04977 Filed 3–15–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2014–0077; FRL–9990–19–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NESHAP for Paper and Other Web Coating (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), NESHAP for Paper and Other Web Coating (40 CFR part 63, subpart JJJJ) (EPA ICR No. 1951.07, OMB Control No. 2060–0511), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through March 31, 2019. Public comments were previously requested, via the **Federal Register**, on May 30, 2018 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An agency may neither conduct nor sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before April 17, 2019.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OECA–2014–0077, to: (1) EPA

online using www.regulations.gov (our preferred method), or by email to docket.oeca@epa.gov, or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460; and (2) OMB via email to oira_submission@omb.eop.gov. Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT:

Patrick Yellin, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 564–2970; fax number: (202) 564–0050; email address: yellin.patrick@epa.gov.

SUPPLEMENTARY INFORMATION:

Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at www.regulations.gov or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit: <http://www.epa.gov/dockets>.

Abstract: The National Emission Standards for Hazardous Air Pollutants (NESHAP) for Paper and Other Web Coating apply to existing facilities and new paper and to other web coating facilities, including web coating lines engaged in the coating of metal webs used in flexible packaging, and web coating lines engaged in the coating of fabric substrates for use in pressure sensitive tape and abrasive materials. New facilities include those that commenced construction or reconstruction after the date of proposal. In general, all NESHAP standards require initial notifications, performance tests, and periodic reports by the owners/operators of the affected facilities. They are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. These notifications, reports, and records are essential in determining

compliance, and are required of all affected facilities subject to NESHAP. This information is being collected to assure compliance with 40 CFR part 63, subpart JJJJ.

Form Numbers: None.

Respondents/affected entities: Paper and other web coating facilities.

Respondent's obligation to respond: Mandatory (40 CFR part 63, subpart JJJJ).

Estimated number of respondents: 197 (total).

Frequency of response: Initially, occasionally and semiannually.

Total estimated burden: 12,000 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: \$2,220,000 (per year), which includes \$852,000 in annualized capital/startup and/or operation & maintenance costs.

Changes in the Estimates: There is an adjustment decrease in the total estimated burden as currently identified in the OMB Inventory of Approved Burdens. This increase is not due to any program changes. The change in the burden and cost estimates is due to more accurate estimates of existing sources based on EPA's recent reevaluation of the source category inventory, which indicated that several facilities have shut down since the last ICR renewal period. These changes result in an overall decrease in the labor hours and O&M costs.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2019-05015 Filed 3-15-19; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-9990-05-OECA]

Applicability Determination Index Data System Posting: EPA Formal Responses to Inquiries Concerning Compliance With Clean Air Act Stationary Source Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: This notice announces applicability determinations, alternative monitoring decisions, and regulatory interpretations that Environmental Protection Agency (EPA) has made with regard to the New Source Performance Standards (NSPS); the National Emission Standards for Hazardous Air Pollutants (NESHAP); the Emission Guidelines and Federal Plan Requirements for existing sources; and/or the Stratospheric Ozone Protection Program.

FOR FURTHER INFORMATION CONTACT: An electronic copy of each complete document posted on the Applicability Determination Index (ADI) data system is available on the internet through the Resources and Guidance Documents for Compliance Assistance page of the Clean Air Act Compliance Monitoring website under "Air" at: <https://www2.epa.gov/compliance/resources-and-guidance-documents-compliance-assistance>. The letters and memoranda on the ADI may be located by author, date, office of issuance, subpart, citation, control number, or by string word searches. For questions about the ADI or this notice, contact Maria Malave, Monitoring, Assistance and Media Programs Division by phone at: (202) 564-7027, or by email at: malave.maria@epa.gov. For technical questions about individual applicability determinations or monitoring decisions, refer to the contact person identified in the individual documents, or in the absence of a contact person, refer to the author of the document.

SUPPLEMENTARY INFORMATION:

Background

The General Provisions of the NSPS in 40 Code of Federal Regulations (CFR) part 60 and the General Provisions of the NESHAP in 40 CFR part 61 provide that a source owner or operator may request a determination of whether certain intended actions constitute the commencement of construction, reconstruction, or modification. 40 CFR 60.5 and 61.06. The General Provisions in part 60 also apply to Federal and EPA-approved state plans for existing sources in 40 CFR part 62. See 40 CFR 62.02(b)(2). The EPA's written responses to source or facility-specific inquiries on provisions in parts 60, 61 and 62 are commonly referred to as applicability determinations. Although the NESHAP part 63 regulations [which include Maximum Achievable Control Technology (MACT) standards and/or Generally Available Control Technology (GACT) standards] contain no specific regulatory provision providing that sources may request applicability determinations, the EPA also responds to written inquiries regarding applicability for the part 63 regulations. In addition, the General Provisions in part 60 and 63 allow sources to seek permission to use monitoring or recordkeeping that is different from the promulgated requirements. See 40 CFR 60.13(i), 61.14(g), 63.8(b)(1), 63.8(f), and 63.10(f). The EPA's written responses to these inquiries are commonly referred to as alternative monitoring decisions. Furthermore, the EPA responds to

written inquiries about the broad range of regulatory requirements in 40 CFR parts 60 through 63 as they pertain to a whole source category. These inquiries may pertain, for example, to the type of sources to which the regulation applies, or to the testing, monitoring, recordkeeping, or reporting requirements contained in the regulation. The EPA's written responses to these inquiries are commonly referred to as regulatory interpretations.

The EPA currently compiles EPA-issued NSPS and NESHAP applicability determinations, alternative monitoring decisions, and regulatory interpretations, and posts them to the ADI on a regular basis. In addition, the ADI contains EPA-issued responses to requests pursuant to the stratospheric ozone regulations, contained in 40 CFR part 82. The ADI is a data system accessed via the internet, with over three thousand EPA letters and memoranda pertaining to the applicability, monitoring, recordkeeping, and reporting requirements of the NSPS, NESHAP, emission guidelines and Federal Plans for existing sources, and stratospheric ozone regulations. Users can search for letters and memoranda by author, date, office of issuance, subpart, citation, control number, or by string word searches.

Today's notice comprises a summary of 45 such documents added to the ADI on February 1, 2019. This notice lists the subject and header of each letter and memorandum, as well as a brief abstract of the content. Complete copies of these documents may be obtained from the ADI on the internet through the Resources and Guidance Documents for Compliance Assistance page of the Clean Air Act Compliance Monitoring website under "Air" at: <https://www2.epa.gov/compliance/resources-and-guidance-documents-compliance-assistance>.

Summary of Headers and Abstracts

The following table identifies the database control number for each document posted on February 1, 2019 to the ADI data system; the applicable category; the section(s) and/or subpart(s) of 40 CFR part 60, 61, 62, 63 and 82 (as applicable) addressed in the document; and the title of the document, which provides a brief description of the subject matter.

Also included in this notice, is an abstract of each document identified with its control number. These abstracts are being provided to the public as possible items of interest and are not intended as substitutes for the contents of the original documents. This notice

does not change the status of any document with respect to whether it is “of nationwide scope or effect” for purposes of CAA section 307(b)(1). For

example, this notice does not convert an applicability determination for a particular source into a nationwide rule. Neither does it purport to make a

previously non-binding document binding.

ADI DETERMINATIONS UPLOADED ON FEBRUARY 1, 2019

Control No.	Categories	Subparts	Title
1500085 ..	NSPS	Ec	Applicability Determination for Hospital/Medical/Infectious Waste Incinerator.
1700009 ..	NSPS	OOOO	Applicability Determination for Natural Gas Processing Plant.
1700037 ..	NSPS	A	Regulatory Interpretation for Continuous Monitoring System Downtime and Emission Reporting.
1700038 ..	NSPS	Ja	Alternative Monitoring Plan for CEMS Calibration Gas at a Refinery.
1700039 ..	NSPS	J	Alternative Monitoring Plan for Sulfur Loading Arm Vent Streams at a Refinery.
1700040 ..	NSPS	Ja	Alternative Monitoring Plan for Total Sulfur Monitor on Flare at Refinery.
1700041 ..	NSPS	Ja	Monitoring Exemption for Hydrogen Sulfide at a Refinery.
1700042 ..	NSPS	Ja	Alternative Monitoring Plan for Sulfur Loading Arm Vent Streams at a Refinery.
1700044 ..	NSPS	NNN, RRR	Alternative Monitoring Request for Distillation Units.
1700045 ..	NSPS	NNN, RRR	Performance Test Waiver and Alternative Monitoring Plan for Vent Gas Streams at Synthetic Organic Chemical Manufacturing Facility.
1700046 ..	NSPS	Y	Applicability Determination for Coal Storage and Transport Operation.
1700047 ..	NSPS	NNN, RRR	Alternative Monitoring Plan for Vent Streams at Synthetic Organic Chemical Manufacturing Facility.
1700048 ..	NSPS	Ja	Monitoring Exemption for Hydrogen Sulfide in Fuel Gas Streams at Refinery.
1700049 ..	NSPS	Ja	Monitoring Exemption for Hydrogen Sulfide in Fuel Gas Streams at Refinery.
1700050 ..	NSPS	OOO	Waiver of Opacity Observation and Alternative Compliance Measure at Non-Metallic Mineral Processing Plant.
1700052 ..	NSPS	LL	Performance Test Extension Request for Dry Crushing Operations at Mineral Processing Plant.
1700053 ..	MACT, NSPS	AAAA, WWW	Applicability Determination for Flare at a Municipal Solid Waste Landfill.
1700054 ..	NSPS	GG	Alternative Testing for Nitrogen Oxides at Stationary Gas Turbines.
1800001 ..	NSPS	WWW	Alternative Tier 2 Calculation Methodology for Municipal Solid Waste Landfill.
1800003 ..	NSPS	CCCC	Applicability Determination for Micro-Auto Gasification System.
1800005 ..	NSPS	J, Ja	Alternative Monitoring Plan for Hydrogen Sulfide during Tank Degassing at Refineries.
1800006 ..	NSPS	A, Ja	Alternative Monitoring Request for Flares at a Refinery.
1800007 ..	NSPS	A, OOO	Test Waiver and Alternate Means of Compliance for Baghouses.
1800008 ..	MACT, NSPS	CC, Kb	Regulatory Interpretation for Recordkeeping at Storage Tanks.
1800009 ..	NSPS	A, Ja	Alternative Monitoring Plan for Hydrogen Sulfide from Flares at Refineries.
1800013 ..	MACT, NSPS	BBBBBB, Kb, WW ...	Alternative Monitoring Plan for Internal Floating Roof Storage Tanks.
M170015	MACT	R	Alternative Monitoring Plan for Vapor Combustion Unit at Gasoline Distribution Terminal.
M170016	MACT	F	Alternative Monitoring Plan for Heat Exchange System at Synthetic Organic Chemical Manufacturing Facility.
M170019	MACT	ZZZZ	Clarification of Emergency and Non-Emergency Generator Use.
M170021	MACT	HHHHH	Design Evaluation and Proposed Operating Parameters for Carbon Adsorption System at Coating Manufacturing Facility.
M170022	MACT	JJJ, MMM	Alternative Monitoring for Pressure Relief Devices on Portable Containers.
M170023	MACT	A, EEEEE	Alternative Monitoring for Continuous Emissions Monitoring System on Automated Shakeout Line at Iron Foundry.
M170024	MACT	HHHHH	Design Evaluation and Proposed Operating Parameters for Carbon Adsorption System at Coating Manufacturing Facility.
M170025	MACT	LL	Compliance Date Extension for Carbon Adsorber System on Pitch Storage Tank at Paste Production Plant.
M170026	MACT, NESHAP	JJJJJJ	Performance Test Time Extension for Coal-Fired Boiler.
M170027	MACT	OOO	Alternative Monitoring Plan for Water Scrubber at a Methylated Resin Process.
M180001	NESHAP	HHHHH	Alternative Monitoring Plan for Carbon Adsorption System at Coating Manufacturing Facility.
M180002	MACT, NESHAP, NSPS	X	Alternative Monitoring Plan for Reverberatory Furnace.
M180004	MACT, NESHAP	LLLLL	Applicability Determination and Alternative Monitoring for Mist Eliminator for Asphalt Storage Tank.
M180005	MACT	S	Alternative Monitoring Plan for Closed Vent Collection Systems at a Paper Mill.
M180011	NESHAP	HHHHH and SS	Alternative Monitoring Plan for Carbon Adsorption System at Coating Manufacturing Facility.
WDS-149	NSPS, Woodstoves .....	.....	Applicability Determination for Wood-Burning and Electric Sauna Stoves.
WDS-150	NSPS, Woodstoves	QQQQ	Clarification on Test Method 28 WHH-PTS and Subpart QQQQ for Hydronic Boiler Certification Tests.
Z180001 ..	NESHAP, NSPS	J, UUU	Alternative Monitoring Plan for Wet Gas Scrubber at a Refinery.
Z180002 ..	NESHAP, NSPS	J, UUU	Alternative Monitoring Plan for Wet Gas Scrubber at a Refinery.

Abstracts*Abstract for [1500085]*

Q1: Does EPA determine that the exemption at 40 CFR 60.50c(f) for “any pyrolysis unit” applies to the CoronaLux plasma assisted pyrolytic system to be installed at the eCycling International, LLC facility located in Ulmer, South Carolina?

A1: No. The exemption at 40 CFR 60.50c(f) does not apply to the CoronaLux system because the definition of “pyrolysis” at 40 CFR 60.51c is the “endothermic gasification of hospital waste . . .” and the CoronaLux system is not endothermic throughout the system.

Q2: Does EPA determine that the CoronaLux system would be subject to 40 CFR part 60 subpart Ec (hospital/medical/infectious waste incinerator (HMIWI) standards)?

A2: Yes. The CoronaLux system, if constructed and operated as described, is a HMIWI, as defined in 40 CFR 60.51c. The EPA determines that the operation of the primary chamber conforms to the definition of “primary chamber” in the HMIWI rule; in which the chamber receives waste material, in which waste is ignited, and from which it is removed. The low energy plasma chamber and the residence chamber are “secondary chambers” under the rule because they receive combustion gases from the primary chamber and the combustion process is completed.

Abstract for [1700009]

Q: Does EPA determine that Monell CO₂, LLC’s (Monell) CO₂ Flex Plant, located in Sweetwater County, Wyoming, that processes CO₂ used in field stimulation is subject to NSPS OOOO, Standards of Performance for Crude Oil and Natural Gas Production, Transmission and Distribution for which Construction, Modification or Reconstruction Commenced After August 23, 2011, and on or before September 18, 2015?

A: Yes. The EPA determines that the Monell CO₂ Flex Plant is a natural gas processing plant subject to NSPS OOOO. Per 40 CFR 60.5430, the definition of natural gas processing plant includes the extraction of natural gas liquids (NGLs), and the Monell CO₂ Flex Plant extracts NGLs.

Abstract for [1700037]

Q1: Does EPA agree with the Oklahoma Department of Environmental Quality’s (ODEQ) interpretation for reporting of Continuous Monitoring System (CMS) downtime, and the methodology for calculating emissions

based upon a valid hour of data collected?

A1: Yes. EPA agrees with ODEQ on how CMS downtime and CMS reported emissions should be determined and reported.

Q2: What interpretation for reporting of CMS downtime did EPA concur with ODEQ?

A2: EPA agreed that each facility should record and report each period of CMS monitor downtime regardless of duration. EPA also clarified the intent of 40 CFR 60.7(d). Since minutes are used to assess opacity compliance, minutes must also be the unit of measure in determining downtime percentages of total operating time. Emission limitations other than opacity are typically based upon hourly block or rolling averages, so assessment of compliance and determining downtime percentages of total operating time needs to be on the same basis (*i.e.*, hourly).

Q3: What interpretation for calculating CMS downtime did EPA concur with ODEQ?

A3: EPA agreed that the calculation of the hourly average emissions requires using each valid 1-minute reading within an hourly monitoring time, not four 15-minute averages within each hour. In accordance with 40 CFR 60.13(h)(2)(v), all valid data points within the monitoring period must be used.

Abstract for [1700038]

Q: Does EPA conditionally approve a request to reduce the concentrations of the calibration gas and validation standards on the continuous emission monitoring system (CEMS) for several flares subject to NSPS subpart Ja at the Valero St. Charles refinery located in Norco, Louisiana?

A: Yes. EPA conditionally approves the request provided that all other requirements of the monitoring procedures of NSPS Subpart Ja for total reduced sulfur (TRS) are followed. The alternative span gases will address safety concerns involving storage, handling, and engineering controls. EPA conditionally approved Valero’s proposed calibration gas concentration ranges for conducting daily drift checks, relative accuracy test audits, and cylinder gas audits, using total sulfur ovens to continuously analyze and monitor TRS. Additionally, Valero must conduct a linearity analysis on the total sulfur ovens once every three years to determine linearity across the entire range of expected concentrations of acid gas vent streams.

Abstract for [1700039]

Q: Does EPA approve an Alternative Monitoring Plan to allow sulfur loading arm vent streams from sulfur recovery units (SRUs) to be combusted in the respective Tail Gas Incinerators (TGIs) under NSPS subpart J at the Valero Houston Refinery located in Houston, Texas?

A: Yes. EPA determines that both SRUs are affected facilities under NSPS subpart J, and the TGIs have continuous emission monitors which comply with the applicable sulfur dioxide emission limit of 250 parts per million (ppm). The sulfur loading arm vent streams include small amounts of hydrogen sulfide vapor at low pressure. These streams are similar to sulfur pit vapors that are routed to the TGIs. EPA has previously determined that such vapors may be controlled by TGIs because sulfur pits are considered to be part of an SRU.

Abstract for [1700040]

Q: Does EPA approve a modification to the July 21, 2016 prior approval of an Alternative Monitoring Plan (AMP) to use the data obtained from the total sulfur (TS) continuous emissions monitoring system (CEMS) for a flare at Plant 3 of the Suncor Energy (U.S.A.) Incorporated (Suncor) Commerce City Refinery in Commerce City, Colorado subject to NSPS subpart Ja? Prior approval is at ADI Control Number 1600033.

A: Yes. EPA approves Suncor’s AMP for a flare at Plant 3, pursuant to 40 CFR 60.13(i), to use the data obtained from the TS CEMS low range two-point daily calibration drift and two-point quarterly audits, as well as a one-point challenge in the high range. Because Suncor is requesting this AMP based on a significant safety hazard to refinery personnel and because this monitoring is being performed to detect the threshold for a root cause analysis, not to monitor for compliance with an emission limit, the EPA will allow for minimal use of high concentration calibration gases. This approach avoids routine use of higher level calibration gases in the field; higher level gases are only used for quarterly audits and annual testing and could be brought on-site by a testing contractor and then removed after the test/audit.

Abstract for [1700041]

Q: Does EPA approve an exemption in lieu of an Alternative Monitoring Plan for combusting an off-gas vent stream from a catalytic oxidizer unit as an inherently low-content sulfur stream under NSPS for Refineries part 60

subpart Ja at the Valero Refining—Texas L.P.'s (Valero's) refinery located in Texas City, Texas?

A: Yes. Based on the process operating parameters and monitoring data submitted by Valero, EPA conditionally approves the exemption request. EPA determines that the Valero catalytic oxidizer unit vent stream is inherently low in sulfur according to 40 CFR 60.107a(a)(3)(iv). If the sulfur content or process operating parameters for the off-gas vent stream change from representations made for the exemption determination, the company must document the changes, re-evaluate the vent stream characteristics, and follow the appropriate steps outlined in 40 CFR 60.107a(b)(3). The exemption determination should also be referenced and attached to the facility's new source review and Title V permit for federal enforceability.

Abstract for [1700042]

Q: Does EPA approve an Alternative Monitoring Plan to allow sulfur loading arm vent streams from sulfur recovery plants (SRPs) to be combusted in the respective Tail Gas Incinerators (TGIs) under NSPS subpart J at the Valero Refining—Texas L.P.'s refinery (Valero) located in Texas City, Texas?

A: Yes. EPA approves Valero's AMP for both SRPs are affected facilities under NSPS Subpart J, and the TGIs have continuous emission monitors which comply with the applicable sulfur dioxide emission limit of 250 parts per million. The sulfur loading arm vent streams include small amounts of hydrogen sulfide vapor at low pressure. These streams are similar to sulfur pit vapors that are routed to the TGIs. EPA has previously determined that such vapors may be controlled by TGIs because sulfur pits are considered to be part of an SRP.

Abstract for [1700044]

Q: Does EPA approve the alternative monitoring request for the distillation units at the Albemarle Corporation Pasadena, Texas facility, which is covered under 40 CFR part 60, NSPS for Volatile Organic Compound (VOC) Emissions from Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations (Subpart NNN) and Reactor Processes (Subpart RRR)?

A: Yes. EPA conditionally approved the request for meeting Subpart RRR requirements in lieu of those in Subpart NNN for testing, monitoring, and record-keeping, related specifically to the use of car seals on closed bypass valves in lieu of flow indicators for compliance with the standards of both

Subparts. Subpart NNN requires flow indicators at each valve. Under Subpart RRR, in lieu of flow indicators each valve would be treated as a bypass line and must be secured with a car-seal or lock and key configuration. Each seal or closure mechanism must be visually inspected monthly and maintained in the closed position so that the vent stream is not diverted through the closed line. In addition, Albemarle must also comply with the associated record keeping requirements of 40 CFR 60.705(d)(2) and 40 CFR 60.705(s) in the initial report to the state agency and maintain a copy onsite for the life of the system to ensure that the affected vent streams are routed to appropriate control devices under this approval.

Abstract for [1700045]

Q: Does EPA approve the Alternative Monitoring and Testing Waiver request for the vent gas streams from the Olefins Manufacturing Unit and Demethanizer Distillation Column Vents at the Eastman Chemical Company facility, located in Longview, Texas, which is covered under 40 CFR part 60, Standards of Performance for Volatile Organic Compound (VOC) Emissions from Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations (subpart NNN) and Reactor Processes (subpart RRR)?

A: Yes. EPA approves the request for meeting subpart RRR in lieu of subpart NNN requirements for testing, monitoring, and recordkeeping for use of process boilers, furnaces and heaters as control devices for compliance with the standards of both subparts. The vent streams will be introduced with the primary fuel for each combustion device. None of the vents have bypasses directly to atmosphere. A copy of the schematic required by 40 CFR 60.705(s) is required with the initial report to the state agency and must be maintained on site for the life of the system to ensure that the affected vent streams are being routed to appropriate control devices without bypass.

Abstract for [1700046]

Q: Does EPA determine that the coal storage and transport operation located at the Kinder Morgan Hickman Bulk Terminal in Blytheville, Arkansas is an affected coal preparation plant subject to the requirements of NSPS subpart Y?

A: No. Based on Kinder Morgan's process description and review of support and guidance documents for subpart Y, EPA determines that although the Hickman Bulk Terminal stores, loads, and transports more than 200 tons per day of pre-processed coal and coke, no additional processing of

coal that involves breaking, crushing, cleaning, or drying takes place at the facility.

Abstract for [1700047]

Q: Does EPA approve the Alternative Monitoring request for the distillation unit at the Nova Molecular Technologies, Incorporated Pasadena, Texas facility, which is covered under 40 CFR part 60, Standards of Performance for Volatile Organic Compound (VOC) Emissions from Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations (subpart NNN) and Reactor Processes (subpart RRR)?

A: Yes. EPA approves the alternative monitoring request for meeting subpart RRR requirements in lieu of those in subpart NNN for testing, monitoring, and record-keeping, related specifically to the use of car seals on closed bypass valves in lieu of flow indicators for compliance with the standards of both subparts. NSPS subpart NNN requires flow indicators at each valve. Under subpart RRR, in lieu of flow indicators each valve would be treated as a bypass line and must be secured with a car-seal or lock and key configuration. Each seal or closure mechanism must be visually inspected monthly and maintained in the closed position so that the vent stream is not diverted through the closed line.

Abstract for [1700048]

Q: Does EPA approve an exemption in lieu of an Alternative Monitoring Plan for combusting an off-gas vent stream from a lean amine tank as an inherently low-content sulfur stream under NSPS for Refineries part 60 subpart Ja at the Valero Refining—Texas L.P.'s (Valero's) refinery located in Texas City, Texas?

A: Yes. Based on the process operating parameters and monitoring data submitted by Valero, EPA conditionally approves the exemption request. EPA determines that Valero's lean amine tank vent stream is inherently low in sulfur according to 60.107a(a)(3)(iv). If the sulfur content or process operating parameters for the off-gas vent stream change from representations made for the exemption determination, the company must document the changes, re-evaluate the vent stream characteristics, and follow the appropriate steps outlined in 40 CFR 60.107a(b)(3). The exemption determination should also be referenced and attached to the facility's new source review and Title V permit for federal enforceability.

Abstract for [1700049]

Q: Does EPA approve an exemption in lieu of an Alternative Monitoring Plan for combusting the combined off-gas vent stream from API separators and vacuum truck loading as an inherently low-content sulfur stream under NSPS for Refineries part 60 subpart Ja at the Valero Refining—Texas L.P.'s (Valero's) refinery located in Texas City, Texas?

A: Yes. Based on the process operating parameters and monitoring data submitted by Valero, EPA conditionally approves the exemption because Valero's API separator and vacuum truck loading combined vent stream is inherently low in sulfur according to 40 CFR 60.107a(a)(3)(iv). If the sulfur content or process operating parameters for the off-gas vent stream change from representations made for the exemption determination, the company must document the changes, re-evaluate the vent stream characteristics, and follow the appropriate steps outlined in 40 CFR 60.107a(b)(3). The exemption determination should also be referenced and attached to the facility's new source review and Title V permit for federal enforceability.

Abstract for [1700050]

Q1: Does EPA approve United Taconite LLC (United) to use daily visible emission checks instead of a Method 9 opacity observation test for the intermittent, backup winter fluxstone unloading fugitive source, regulated by 40 CFR part 60 subpart OOO, at its fluxstone handling facility in Forbes, Minnesota?

A1: No. EPA denies United's request to waive Method 9 testing on the winter fluxstone unloading facilities. United must comply with the requirements of subpart OOO by conducting the required testing.

Q2: Does EPA waive the requirement for Method 9 visible emission performance testing requirements for affected facilities inside United's fluxstone storage building?

A2: No. EPA denies United's request to waive Method 9 testing on the fluxstone storage building. United must comply with the requirements of subpart OOO by conducting the required testing.

Q3: Does EPA determine that United meets the testing requirements for its EQUI 173 and 174 emission units with a single test using the stack from the common control device?

A3: Yes. EPA approves United's request to meet the testing requirements on summer unloading conveyors by conducting a combined emission test.

Q4: Does EPA determine that the appropriate limit for the fabric filter control device controlling EQUI 173 and 174 is 0.014 grains per dry standard cubic foot (gr/dscf)?

A4: Yes. EPA approves United's request to comply with an emission limit of 0.014 gr/dscf on the combined operations of both summer unloading conveyors and to demonstrate compliance at the fabric filter control device.

Q5: Does EPA determine that a compliant performance test of EQUI 173 and 174 is sufficient evidence to grant a testing requirement waiver for the EQUI 175 facility?

A5: Yes. EPA conditionally approves United's request to waive the conveyor EQUI 175 testing requirement of an initial performance test at the fabric filter controlling the winter fluxstone unloading conveyor. United must first conduct testing to demonstrate the compliance of the fabric filter during the combined testing of the summer unloading conveyors STRU I and associated TREA 3 before EPA will waive the initial testing requirement.

Abstract for [1700052]

Q: Does EPA approve Magnetation LLC's request for a performance test deadline extension for dry crushing operations at its Plant 2 facility subject to NSPS subpart LL and located in Grand Rapids, Minnesota due to the fact that the dry crushing equipment was removed from the site prior to the performance test deadline?

A: No. EPA denies the request for a performance test extension. However, since the dry crushing operations are no longer present at the facility, the requirement to conduct a performance test is no longer applicable. Any new dry crushing equipment will be subject to all applicable permit requirements, NSPS subpart LL, and the performance testing requirements of 40 CFR 60.8.

Abstract for [1700053]

Q: Does EPA determine that a flare controlling the purge gas stream of a landfill gas treatment system siloxane removal process at the Liberty Landfill, Incorporated (Liberty) landfill located in Monticello, Indiana is subject to the control requirements of 40 CFR 60.752(b)(2)(iii)(A) or (B) under NSPS subpart WWW?

A: Yes. EPA determines that the purge gas stream at the Liberty landfill constitutes an "atmospheric vent from the gas treatment system" and is subject to the control requirements of 40 CFR 60.752(b)(2)(iii)(A) or (B).

Abstract for [1700054]

Q: Does EPA approve Halcón Resources' request for nitrogen oxides (NO_x) performance testing on turbines subject to NSPS subpart GG at three locations on the Fort Berthold Indian Reservation in Dunn County, North Dakota to be allowed to test at 2 loads instead of 4 loads?

A: Yes. EPA approves the alternative testing request for the performance testing for NO_x required under 40 CFR 60.335. The required tests may be conducted at an initial maximum load and a second load 15–25% lower than maximum load of each turbine for 42-minute test run times, double the required 21-minute test run time outlined in Method 20, section 8.5. Pursuant to 40 CFR 60.8(b)(4), EPA waives the requirement under 40 CFR 60.335(b)(2) for Halcón Resources to conduct the four evenly-spaced point load test for NO_x emissions for gas turbines at the San Luis/Alamosito Pad, Sherman Pad and Yale Pad facilities contingent upon doubling the run times of each of the three tests.

Abstract for [1800001]

Q1: Does EPA approve additional Tier 2 testing in the intervening months between when the landfill gas collection and control system (GCCS) Design Plan is due and when the GCCS is required to be operational at the Central Sanitary Landfill (CSL) located in Pierson, Michigan and subject to 40 CFR part 60 subpart WWW?

A1: Yes. EPA determines that additional Tier 2 testing can be conducted after the Design Plan has been submitted and conditionally approves your proposed alternative testing methodology, which is consistent with previous determinations issued by EPA.

Q2: Does EPA approve CSL to use alternative Tier 2 testing methodology where the actual flowrate data is measured from the header of its voluntary GCCS and the equation set forth in 40 CFR 60.754(b) in lieu of the procedure at 40 CFR 60.754(a)(1) so long as it can fully account for the total quantity of landfill gas being generated by the landfill?

A2: Yes. EPA conditionally approves the alternative Tier 2 testing methodology based on CSL can demonstrate that it is collecting for the total quantity of landfill gas being generated by the landfill to the satisfaction of the Michigan Department of Environmental Quality.

Abstract for [1800003]

Q: Does EPA determine that Dyno Nobel Incorporated's (Dyno) Micro-Auto

Gasification System ("MAGS") located at its Wolf Lake, Illinois facility is subject to the NSPS subpart CCCC, Standards of Performance for Commercial and Industrial Solid Waste Incineration Units?

A: No. Based on the Dyno's description of the MAGS, EPA determines that the MAGS unit is not subject to NSPS subpart CCCC because does not combust solid waste as defined in 40 CFR part 241. The gasification unit does not meet the regulatory criterion of being "any distinct operating unit of any commercial or industrial facility that combusts, or has combusted in the preceding 6 months, any solid waste as that term is defined in 40 CFR part 241."

Abstract for [1800005]

Q: Does EPA approve an Alternative Monitoring Plan (AMP) for O-Zone Industrial Services (O-Zone) to conduct monitoring of hydrogen sulfide (H₂S) emissions, in lieu of installing a continuous emission monitoring system, when performing tank degassing and other similar operations controlled by portable, temporary thermal oxidizers, at refineries that are subject to NSPS subparts J or Ja?

A: Yes. Based on the description of the process, the vent gas streams, the design of the vent gas controls, and the H₂S monitoring data furnished, EPA conditionally approves O-Zone's AMP for tank degassing and other temporary operations at various petroleum refineries located in the region. EPA is including proposed operating parameter limits and data which the refineries must furnish as part of the conditional approval.

Abstract for [1800006]

Q: For flares subject to NSPS subpart Ja and which are normally recovering flare gases, does EPA approve BP Products North America, Incorporated's (BP's) request to conduct an enhanced cylinder gas audit (CGA) at its Whiting, Indiana refinery rather than a relative accuracy test audit (RATA) for the hydrogen sulfide (H₂S) continuous emission monitoring systems (CEMS)?

A: No. EPA determines that BP can conduct the RATA due to the location of its H₂S CEMS and has not demonstrated why foregoing the RATA in lieu of an enhanced CGA is necessary or more beneficial than other alternative monitoring options.

Abstract for [1800007]

Q: Does EPA approve a waiver of the requirement to conduct a Method 5 performance test under NSPS OOO, Standards of Performance for

Nonmetallic Mineral Processing Plants, and demonstration of compliance by the use of Method 9 for baghouses located at the Unimin Corporation facility in Troup, Texas (Unimin)?

A: Yes. EPA waives conducting Method 5 test on the baghouse that controls emissions from the silos and bagging operations due to the difficulty to complete the test due to the location and orientation of the baghouse stack outlets, and the intermittent nature of loading operations with little advance notice and very short durations, which are not sustained long enough to meet the sampling requirements of Method 5. Unimin's alternate compliance demonstration based on any two-minute average of opacity from the baghouse stacks not exceeding five percent will provide adequate assurance of compliance with both the particulate concentration and opacity limits in subpart OOO. The Method 9 testing must be conducted in accordance with the applicable requirements of NSPS subparts A and OOO.

Abstract for [1800008]

Q1: Are tanks that meet the exemption levels of 40 CFR 60.110b(b) subject to any recordkeeping requirements in 40 CFR 60.116b, including 40 CFR 60.116b(b), of the New Source Performance Standards (NSPS), subpart Kb?

A1: No. The EPA responded to the Oklahoma Department of Environmental Quality (OKDEQ) that if a tank meets the exemption requirement under 40 CFR 60.110b(b) or (d), the requirements under 40 CFR 60.116b do not apply.

Q2: Is an existing Group I or II storage tank that is an affected source under NSPS subpart Kb, but which meets the exemption levels of 60.110b(b), required to comply with the recordkeeping requirement of NSPS subpart Kb?

A2: No. The EPA responded to OKDEQ that if a Group 1 or Group 2 storage vessel can meet the exemption of NSPS subpart Kb, then the recordkeeping provisions of 40 CFR 60.116b do not apply. The exemptions at 40 CFR 60.110b(b) and (d) begin with the phrase "This subpart does not apply to . . ." 40 CFR 63.640(n)(1) states that if a Group 1 or Group 2 storage vessel under NESHAP subpart CC is part of an existing source, it is required to comply only with the requirements of NSPS subpart Kb. Since NESHAP subpart CC references NSPS Kb for existing sources, the exemption in subpart Kb takes precedence.

Abstract for [1800009]

Q: Does EPA approve an alternative monitoring plan (AMP) to allow

alternate span gas concentration values for hydrogen sulfide (H₂S) on total reduced sulfur (TRS) continuous emissions monitoring systems (CEMS) for six flares subject to NSPS subparts A and Ja, located at the HollyFrontier Navajo Refining Company's (HollyFrontier Navajo's) two petroleum refineries in Artesia and Lovington, New Mexico?

A: Yes. Based on the process data and analyzer information submitted, EPA conditionally approves the AMP request with specified concentration ranges. HollyFrontier Navajo installed a ThermoFisher Scientific SOLA II pulsed ultraviolet fluorescence (PUVF) detector to continuously analyze and record the high span TRS concentrations at the flares. HollyFrontier Navajo must conduct linearity analysis on the SOLA II PUVF detector once every three years to determine the detector's linearity across the entire range of expected concentrations of acid gas vent streams. The analysis shall demonstrate that linearity is maintained for all six flares for the vent gas stream H₂S concentrations. A report of each completed linearity analysis shall be submitted to EPA Region 6 and to the New Mexico Environmental Department, and maintained in each facility's on-site records.

Abstract for [1800013]

Q: Does EPA approve an Alternative Monitoring Plan (AMP) request for two internal floating roof (IFR) storage tanks located at the Phillips 66 East Saint Louis, Illinois facility (Phillips 66) and subject to 40 CFR part 60 subpart Kb?

A: Yes. EPA approves an AMP that allows Phillips 66 to conduct inspections of the IFR tank using a top-side in-service internal inspection methodology.

Abstract for [M170015]

Q: Does EPA approve an Alternative Monitoring Plan (AMP) under MACT subpart R for monitoring of alternative operating parameters at a thermal oxidation system in lieu of temperature monitoring at the firebox during loading of gasoline cargo tanks at the Magellan Pipeline Company, LP's (Magellan's) bulk gasoline distribution terminal located in Enid, Oklahoma?

A: Yes. EPA approves the AMP for monitoring of the presence of a pilot flame, operation of the assist-air blower, and operation of the vapor line valve for the thermal oxidation system. Magellan submitted results from a performance test conducted in accordance with 40 CFR 63.425(b), demonstrating overall compliance with the emission standard. Additionally, Magellan proposed

monthly and semi-annual inspections to ensure efficient operation of the associated monitoring equipment.

Abstract for [M170016]

Q: Does EPA approve an alternative monitoring plan to use a sampling technique which is different from that specified under 40 CFR part 63 subpart F for the heat exchange system at the Rubicon LLC facility located in Geismar, Louisiana?

A: No. EPA denies the request based on lack of sufficient justification for using the alternate sampling method, including failing to sufficiently demonstrate that composite sample collection would achieve an equivalent level of monitoring as three sets of grab samples taken at the entrance and exit of the heat exchange system, as required by 40 CFR 63.104(b)(5).

Abstract for [M170019]

Q: Does EPA determine that additional time needed for the Roche Diagnostic Operations, Incorporated (Roche) facility, located in Indianapolis, Indiana, to switch from the facility's emergency generators back to utility-provided power after a power outage has ended should be considered operation in an "emergency situation" under 40 CFR part 63 subpart ZZZZ?

A: No. EPA determines that operation of the facility's emergency engines as a result of a power outage is operation in an emergency situation until the first available opportunity to be switched back to the local utility-provided power. Generally, any period of operation that occurs after Roche could have switched back to utility power but chose not to do so for operational convenience should not be considered operation in an emergency situation.

Abstract for [M170021]

Q1: Does EPA approve Dow Chemical Company's (Dow's) proposal to use a carbon adsorption system to control emissions under 40 CFR part 63 subpart HHHHH from the Structural Adhesives Process Unit at its miscellaneous coating manufacturing facility in Midland, Michigan?

A1: No. Dow did not submit sufficient information for EPA to evaluate the proposal to use a carbon adsorption system.

Q2: Does EPA approve Dow's proposed operating parameter for the carbon adsorption system?

A2: No. EPA determines that Dow's proposed operating parameter is insufficient to ensure that the carbon bed is operating properly at all times.

Abstract for [M170022]

Q: Does EPA approve at Dow Chemical Company's Midland, Michigan facility the use of alternative monitoring of pressure relief devices for portable containers per 40 CFR part 63 subparts JJJ and MMM?

A: Yes. Based on the information provided in Dow's request, EPA conditionally approves alternative monitoring to perform and document visual observations of the pressure release devices on the portable containers used to manage waste and wastewater. Dow demonstrated the infeasibility of using hardwire and wireless pressure release device technology to continuously monitor these technologies for portable containers that are moved frequently, primarily rented, in some cases are received from off-site locations, and not dedicated to specific regulated wastewater streams. The conditions for approval are included in the EPA response letter.

Abstract for [M170023]

Q: Does EPA approve Brembo North America, Incorporated's (Brembo's) request to use a Continuous Parametric Monitoring System in lieu of a continuous emissions monitoring system (CEMS) for monitoring Volatile Organic Hazardous Air Pollutant (VOHAP) emissions under 40 CFR part 63 subpart EEEEE from an automated castings shakeout line at its grey iron foundry in Homer, Michigan?

A: No. EPA determines that Brembo has not provided sufficient information to demonstrate that operating a VOHAP CEMS device on its shakeout line would be technically infeasible or impractical.

Abstract for [M170024]

Q1: Does EPA approve The Dow Chemical Company's (Dow's) proposal to discontinue use of the Impinging Liquid Adsorption System and instead use a carbon adsorption system under 40 CFR part 63 subpart HHHHH at its miscellaneous coating manufacturing facility in Midland, Michigan?

A1: No. Dow did not submit sufficient information for EPA to evaluate the proposal to use a carbon adsorption system.

Q2: Does EPA approve Dow's proposed operating parameter for the carbon adsorption system?

A2: No. Dow's proposed operating parameter is insufficient to ensure that the carbon bed is operating properly at all times.

Abstract for [M170025]

Q: Alcoa Warrick LLC (Alcoa) is in the process of restarting a smelter idled

on March 31, 2016, and is requesting additional time under 40 CFR subpart LL for the installation of a carbon adsorber system necessary to meet the required POM removal rate at the pitch tank(s) located in the paste production plant in Newburgh, Indiana. Does EPA grant Alcoa's request for an additional 60 days to the October 16, 2017 compliance date contained in 40 CFR 63.847(a)(2)(iii) for the pitch storage tank POM limit provisions of 40 CFR 63.843(d)?

A: Yes. Since the additional 60 days is necessary for the installation of controls, EPA grants the limited extension in accordance with 40 CFR 63.6(i)(4)(i)(A).

Abstract for [M170026]

Q: Does EPA approve Associated Milk Producers, Incorporated's request for a performance test time extension under 40 CFR part 63 subpart JJJJJ, so that the facility, located in Jim Falls, Wisconsin, can perform the test concurrent with another state-required test to minimize the cost of testing?

A: No. Based on the information provided, EPA determines that there are no grounds for an extension under NESHAP subpart JJJJJ or 40 CFR 63.7 (Performance Testing Requirements). The request involves a coal-fired boiler, and the test is required to demonstrate compliance pursuant to NESHAP subpart JJJJJ.

Abstract for [M170027]

Q: Does EPA approve Allnex USA Incorporated's (Allnex's) alternative monitoring request to not monitor the pH of a water scrubber for a methylated resin process subject to 40 CFR part 63 subpart OOO at its Kalamazoo, Michigan facility?

A: Yes. EPA waives the requirement to monitor scrubber effluent pH for once-through water scrubber systems pursuant to 40 CFR 63.1415(c)(2), which allows an owner or operator who uses one of the control devices included in 40 CFR 63.1415(b) (e.g., a scrubber) to request approval to monitor parameters other than those specified in Table 3 of Subpart OOO. Since methanol and formaldehyde are not acidic gases, are both highly soluble in water, and the scrubber is a once-through system, the pH of the scrubber effluent does not affect the scrubber's removal efficiency.

Abstract for [M180001]

Q: Pursuant to 40 CFR 63.8000(d)(3) and 63.8075(c), does EPA approve an alternative monitoring plan (AMP) from The Dow Chemical Company (Dow) for use of alternative operating parameters in lieu of the parameters identified in

40 CFR 63.990(c)(3) of the National Emission Standards for Hazardous Air Pollutants: Miscellaneous Coating Manufacturing, 40 CFR part 63, subpart HHHHH, for a carbon adsorption located at the twin extruder unit located at the coating manufacturing facility in Midland, Michigan?

A: Yes. Based on the information submitted by Dow, EPA conditionally approves Dow's proposed AMP to monitor the instantaneous weight of each carbon bed and hourly average outlet temperature of each bed in the series, if the hourly average temperatures demonstrate that at least one of the beds is operating properly such that it can achieve at least 95 percent reduction in HAP emissions, no deviation of the temperature operating limit has occurred.

Abstract for [M180002]

Q: Does EPA approve Quemetco Incorporated's (Quemetco) alternative monitoring plan (AMP) to use the furnace firing rate as a surrogate for temperature to demonstrate compliance with the emission standards for total hydrocarbon (THC) and dioxins and furans (D/F) emissions standards for all furnace operating scenarios at its Indianapolis, Indiana facility subject to 40 CFR part 63, subpart X?

A: The Quemetco's AMP does not address the scenario for periods when only the electric furnace is in operation. Therefore, the EPA approves the use of furnace firing rate as a surrogate for temperature to demonstrate continuous compliance only for the reverberatory furnace when is in operation. For all other periods (*i.e.*, when only the electric furnace is operating), Quemetco must demonstrate continuous compliance with the THC and D/F through continuous temperature monitoring consistent with 40 CFR 63.548(j).

Abstract for [M180004]

Q1: Does EPA determine that a mist eliminator controlling emissions from only a Group 2 tank needs to comply with item 3 or 4 of Table 5 of the NESHAP subpart LLLLL at the CertainTeed Corporation facility located in Shakopee, Minnesota?

A1: Yes. EPA determines that a mist eliminator needs to comply with item 4 of Table 5 of the NESHAP subpart LLLLL because a mist eliminator is not a combustion device.

Q2: Does EPA approve of monitoring the mist eliminator to ensure a minimum pressure drop is met and performing daily visible emission checks to demonstrate compliance with the opacity standard?

A2: No. EPA determines the mist eliminator must be monitored to ensure a pressure drop is maintained between a range and that the gas inlet temperature is maintained below a certain temperature established by the most recent stack test or according to the manufacturer's specifications.

Abstract for [M180005]

Q: Does EPA approve an Alternative Monitoring Plan (AMP) to change the fixed 30-day frequency for inspections required for closed-vent collection systems, subject to 40 CFR part 63 subpart S, at the Clearwater Paper Corporation (Clearwater) Cypress Bend Mill in McGehee, AR?

A: Yes. EPA conditionally approves Clearwater's AMP request to conduct inspections on a monthly basis rather than every thirty days. EPA accepts the proposed submittal of a site-specific Leak Detection and Repair (LDAR) plan, but does not approve the safety height threshold of four feet, referencing the requirement at 40 CFR 63.148(h)(l), in which the safety height threshold is specified as 2 meters (approximately 6 feet). EPA also conditionally approves alternative monitoring provisions for inspection and repair of inherently unsafe or inaccessible equipment, as part of the site-specific plan. The submitted plan must incorporate the approved conditions outlined in EPA's response letter. Except for inherently unsafe or inaccessible equipment, the facility will satisfy all other applicable monitoring requirements of 40 CFR 63.453(k) and (l).

Abstract for [M180011]

Q: Pursuant to 40 CFR 63.8000(d)(3) and 63.8075(c), does EPA approve an alternative monitoring plan (AMP) from The Dow Chemical Company (Dow) to use the weight of the carbon bed and outlet temperature of each bed in the series in lieu of using an organic monitoring device capable of providing a continuous record at its coating manufacturing for a carbon adsorption for the Structural Adhesives Process Unit located at its facility in Midland, Michigan, that is subject to the National Emission Standards for Hazardous Air Pollutants: Miscellaneous Coating Manufacturing, 40 CFR part 63, subpart HHHHH?

A: Yes. EPA approves Dow's proposed AMP, including proposed parameters, operating limits and design evaluation, with clarifications relating to the proposed parameters.

Abstract for [WDS-149]

Q: Does the EPA determine that the 2015 Wood Heater regulations (2015

Standards of Performance for New Residential Wood Heaters, New Residential Hydronic Heaters and Forced-Air Furnaces (subpart AAA)) apply to the manufacture of Kuuma sauna stoves by Lamppa Manufacturing Incorporated (Lamppa) located in Tower, Minnesota?

A: No. After review of the information on the and intended use of the sauna stoves, EPA determines that subpart AAA does not apply to Lamppa's sauna stoves since these do not meet the definition of wood heater. The sauna stoves as manufactured are intended solely for the purpose of heating a "sauna hot-room" and are not meant to be a heat source for any other area, including residential space ("homes or living quarters"). Subpart AAA defines a wood heater as "an enclosed, wood burning-appliance capable of and intended for residential space heating or space heating and domestic water heating." For subpart AAA to be applicable, the wood heater would have to be meant for residential purposes. The term "residential" is commonly defined as a space designed and used for people to live in. Therefore, the Kuuma sauna stoves are intended to heat the sauna hot-room only and not to be used for residential use.

Abstract for [WDS-150]

Q: If RISE Research Institutes of Sweden AB uses Method 28 WHH-PTS when conducting certification tests for a hydronic boiler, does EPA determine that the method's startup phase measurement satisfies the first hour particulate matter (PM) emissions measurement as required by the 2015 Wood Heater Rule (the Rule), subpart QQQQ, at 40 CFR 60.5476(c)(6)?

A: Yes. EPA determines that the Method 28 WHH-PTS startup phase measurement does meet the regulatory to measure PM first-hour emissions measurement requirement with startup conditions. The intent of the Rule to measure potentially higher emissions associated with startup conditions is obtained by the test method which separately captures the emissions from the explicitly defined startup phase. Test Method 28 WHH-PTS not only measures PM emissions for the entire test duration, including the startup phase, the Method also clearly defines the startup phase "as the period from the start of the test until 15 percent of the test fuel charge is consumed."

Abstract for [Z180001]

Q: Does EPA approve Phillips 66 Company's request to modify a previously issued Alternative Monitoring Plan (AMP) for a Wet Gas

Scrubber (WGS) on a the No. 4 Fluidized Catalytic Cracking Unit (FCCU) subject to NSPS part 60, subpart J, and also new requirements of NESHAP part 63, subpart UUU, for parametric monitoring of opacity at the WGS in lieu of a Continuous Opacity Monitoring System, due to moisture interference on opacity readings in the stack at its Ponca City Refinery, located in Ponca City, Oklahoma?

A: Yes. Based upon the design of the WGS unit and EPA review of the test results and process specific supplemental information provided by Phillips 66 Company, EPA conditionally approves the AMP request for operating parameter limits for the WGS. The OPLs approved for demonstrating compliance with the AMP included minimum Liquid-to-Gas Ratio (L/G), minimum water pressure to the quench/spray tower nozzles, and minimum pressure drop across filter modules/cyclolabs. The revised AMP must include data in support of retaining the independent OPLs established for the scrubber under NSPS subpart J, based on a performance test under worst case expected operating conditions, which will also meet the newly added opacity monitoring requirements under MACT subpart UUU.

Abstract for [Z180002]

Q: Does EPA approve Phillips 66 Company's request to modify a previously issued Alternative Monitoring Plan (AMP) for a Wet Gas Scrubber (WGS) on the No. 5 Fluidized Catalytic Cracking Unit (FCCU) subject to NSPS part 60, subpart J, and also new requirements of NESHAP Part 63, subpart UUU, for parametric monitoring of opacity at the WGS in lieu of a Continuous Opacity Monitoring System, due to moisture interference on opacity readings in the stack at its Ponca City Refinery located in Ponca City Oklahoma?

A: Yes. based upon the design of the WGS unit and EPA review of the test results and process specific supplemental information provided by Phillips 66 Company, EPA conditionally approves the request for operating parameter limits (OPLs) for the WGS. The OPLs approved for demonstrating compliance with the AMP included minimum Liquid-to-Gas Ratio (L/G), minimum water pressure to the quench/spray tower nozzles, and minimum pressure drop across filter modules/cyclolabs. The revised AMP must include data in support of retaining the independent OPLs established for the scrubber under NSPS subpart J, based on a performance test under worst case expected operating conditions, which

will also meet the newly added opacity monitoring requirements under MACT subpart UUU.

Dated: November 20, 2018.

John Dombrowski,

Acting Director, Office of Compliance, Office of Enforcement and Compliance Assurance.

Editorial Note: This document was received by the **Federal Register** on February 25, 2019.

[FR Doc. 2019-03593 Filed 3-15-19; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2017-0750; FRL-9989-66]

Registration Review Proposed Interim Decisions for Several Pesticides; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of EPA's proposed interim registration review decisions and opens a 60-day public comment period on the proposed interim decisions for the following pesticides: Aviglycine hydrochloride, buprofezin, diflubenzuron, lufenuron, oxytetracycline, prohexadione calcium, pymetrozine, streptomycin, tebuthiuron, and thiobencarb. This notice also announces the availability of EPA's human health and ecological risk assessments for the pesticides oxytetracycline and streptomycin and opens a 60-day public comment period on the risk assessments.

DATES: Comments must be received on or before May 17, 2019.

ADDRESSES: Submit your comments, identified by the docket identification (ID) number for the specific pesticide of interest provided in the Table in Unit IV, by one of the following methods:

- **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

- **Mail:** OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001.

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

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

FOR FURTHER INFORMATION CONTACT:

For pesticide specific information, contact: The Chemical Review Manager for the pesticide of interest identified in the Table in Unit IV.

For general information on the registration review program, contact: Dana Friedman, Pesticide Re-Evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001; telephone number: (703) 347-8827; email address: friedman.dana@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, farm worker, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the Chemical Review Manager for the pesticide of interest identified in the Table in Unit IV.

B. What should I consider as I prepare my comments for EPA?

1. **Submitting CBI.** Do not submit this information to EPA through [regulations.gov](http://www.regulations.gov) or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information on a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. **Tips for preparing your comments.** When preparing and submitting your comments, see the commenting tips at <http://www.epa.gov/dockets/comments.html>.

II. Background

Registration review is EPA's periodic review of pesticide registrations to ensure that each pesticide continues to satisfy the statutory standard for registration, that is, the pesticide can perform its intended function without unreasonable adverse effects on human health or the environment. As part of the registration review process, the Agency has completed proposed interim decisions for all pesticides listed in the Table in Unit IV. Through this program, EPA is ensuring that each pesticide's registration is based on current scientific and other knowledge, including its effects on human health and the environment.

III. Authority

EPA is conducting its registration review of the chemicals listed in the Table in Unit IV pursuant to section 3(g) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Procedural Regulations for Registration Review at 40 CFR part 155, subpart C. Section 3(g) of FIFRA provides, among other things, that the registrations of pesticides are to be reviewed every 15 years. Under FIFRA, a pesticide product may be registered or remain registered only if it meets the statutory standard for registration given in FIFRA section 3(c)(5) (7 U.S.C. 136a(c)(5)). When used in accordance with widespread and commonly recognized practice, the pesticide product must perform its intended function without unreasonable

adverse effects on the environment; that is, without any unreasonable risk to man or the environment, or a human dietary risk from residues that result from the use of a pesticide in or on food.

IV. What action is the Agency taking?

Pursuant to 40 CFR 155.58, this notice announces the availability of EPA's proposed interim registration review decisions for the pesticides shown in the following table and opens a 60-day public comment period on the proposed interim decisions. This notice also announces the availability of EPA's human health and ecological risk assessments for the pesticides oxytetracycline and streptomycin and opens a 60-day public comment period on the risk assessments.

Registration review case name and No.	Docket ID No.	Chemical Review Manager and contact information
Aviglycine Hydrochloride, Case 6070	EPA-HQ-OPP-2011-0691 ...	Donna Kamarei, kamarei.donna@epa.gov , (703) 347-0443.
Buprofezin, Case 7462	EPA-HQ-OPP-2012-0373 ...	Patricia Biggio, biggio.patricia@epa.gov , (703) 347-0547.
Diflubenuron, Case 0144	EPA-HQ-OPP-2012-0714 ...	Christian Bongard, bongard.christian@epa.gov , (703) 347-0337.
Lufenuron, Case 7627	EPA-HQ-OPP-2015-0098 ...	Jill Bloom, bloom.jill@epa.gov , (703) 308-8019.
Oxytetracycline, Case 0655	EPA-HQ-OPP-2008-0686 ...	Matthew Manupella, manupella.matthew@epa.gov , (703) 347-0411.
Prohexadione calcium, Case 7030	EPA-HQ-OPP-2012-0870 ...	Moana Appleyard, appleyard.moana@epa.gov , (703) 308-8175.
Pymetrozine, Case 7474	EPA-HQ-OPP-2013-0368 ...	Marianne Mannix, mannix.marianne@epa.gov , (703) 347-0275.
Streptomycin, Case 0169	EPA-HQ-OPP-2008-0687 ...	Matthew Manupella, manupella.matthew@epa.gov , (703) 347-0411.
Tebuthiuron, Case 0054	EPA-HQ-OPP-2009-0327 ...	Matthew Manupella, manupella.matthew@epa.gov , (703) 347-0411.
Thiobencarb, Case 2665	EPA-HQ-OPP-2011-0932 ...	R. David Jones, jones.rdavid@epa.gov , (703) 305-6725.

The registration review docket for a pesticide includes earlier documents related to the registration review case. For example, the review opened with a Preliminary Work Plan, for public comment. A Final Work Plan was placed in the docket following public comment on the Preliminary Work Plan.

The documents in the dockets describe EPA's rationales for conducting additional risk assessments for the registration review of the pesticides included in the table in Unit IV, as well as the Agency's subsequent risk findings and consideration of possible risk mitigation measures. These proposed interim registration review decisions are supported by the rationales included in those documents. Following public comment, the Agency will issue interim or final registration review decisions for the pesticides listed in the table in Unit IV.

The registration review final rule at 40 CFR 155.58(a) provides for a minimum 60-day public comment period on all proposed interim registration review decisions. This comment period is intended to provide an opportunity for public input and a mechanism for initiating any necessary amendments to the proposed interim decision. All comments should be submitted using

the methods in **ADDRESSES** and must be received by EPA on or before the closing date. These comments will become part of the docket for the pesticides included in the Table in Unit IV. Comments received after the close of the comment period will be marked "late." EPA is not required to consider these late comments.

The Agency will carefully consider all comments received by the closing date and may provide a "Response to Comments Memorandum" in the docket. The interim registration review decision will explain the effect that any comments had on the interim decision and provide the Agency's response to significant comments.

Background on the registration review program is provided at: <http://www.epa.gov/pesticide-reevaluation>.

Authority: 7 U.S.C. 136 *et seq.*

Dated: March 4, 2019.

Charles Smith,

Acting Director, Pesticide Re-Evaluation Division, Office of Pesticide Programs.

[FR Doc. 2019-04969 Filed 3-15-19; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2018-0576; FRL-9989-72]

Pesticide Product Registration; Receipt of Applications for New Uses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received applications to register new uses for pesticide products containing currently registered active ingredients. Pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is hereby providing notice of receipt and opportunity to comment on these applications.

DATES: Comments must be received on or before April 17, 2019.

ADDRESSES: Submit your comments, identified by the Docket Identification (ID) Number and the File Symbol or EPA Registration Number of interest as shown in the body of this document, by one of the following methods:

- **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be

Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001.

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

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

FOR FURTHER INFORMATION CONTACT:

Michael Goodis, Registration Division (7505P), main telephone number: (703) 305-7090, email address: RDFRNotices@epa.gov. The mailing address for each contact person is: Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001. As part of the mailing address, include the contact person's name, division, and mail code. The division to contact is listed at the end of each application summary.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

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

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

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through [regulations.gov](http://www.regulations.gov) or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that

includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at <http://www.epa.gov/dockets/comments.html>.

II. Registration Applications

EPA has received applications to register new uses for pesticide products containing currently registered active ingredients. Pursuant to the provisions of FIFRA section 3(c)(4) (7 U.S.C. 136a(c)(4)), EPA is hereby providing notice of receipt and opportunity to comment on these applications. Notice of receipt of these applications does not imply a decision by the Agency on these applications.

III. New Uses

1. *EPA Registration Numbers:* 241-245 and 241-418. *Docket ID number:* EPA-HQ-OPP-2018-0619. *Applicant:* BASF Corporation, 26 Davis Drive, Research Triangle Park, NC 27709. *Active ingredient:* Pendimethalin. *Product type:* Herbicide. *Proposed uses:* Leaf petiole vegetable subgroup 22B, Monarda, and Rosemary. *Contact:* RD.

2. *EPA Registration Numbers:* 264-1106 and 264-1129. *Docket ID number:* EPA-HQ-OPP-2018-0561. *Applicant:* Bayer CropScience LP2, T.W. Alexander Dr., Research Triangle Park, NC 27709. *Active ingredient:* Indaziflam. *Product type:* Herbicide. *Proposed use:* Lowbush blueberry; Tropical and subtropical fruit, edible peel, group 23; Tropical and subtropical fruit, inedible peel, group 24. *Contact:* RD.

3. *EPA Registration Number:* 54555-2. *Docket ID number:* EPA-HQ-OPP-2018-0797. *Applicant:* AlzChem Trostberg GmbH, Dr.-Albert-Frank-Str. 32, D-83308 Trostberg, Germany. *Active ingredient:* Hydrogen cyanamide. *Product type:* Fungicide. *Proposed Uses:* Almond and Pistachio. (RD).

Authority: 7 U.S.C. 136 *et seq.*

Dated: February 27, 2019.

Delores Barber,

Director, Information Technology and Resources Management Division, Office of Pesticide Programs.

[FR Doc. 2019-04972 Filed 3-15-19; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-EPA-HQ-OECA-2014-0101; FRL-9990-55-OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NESHAP for Polyvinyl Chloride and Copolymers Production (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), NESHAP for Polyvinyl Chloride and Copolymers Production (EPA ICR Number 2432.04, OMB Control Number 2060-0666), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through March 31, 2019. Public comments were previously requested, via the **Federal Register**, on May 30, 2018 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An agency may neither conduct nor sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before April 17, 2019.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA-HQ-OECA-2014-0101, to: (1) EPA online using www.regulations.gov (our preferred method), or by email to docket.oeca@epa.gov, or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460; and (2) OMB via email to oira_submission@omb.eop.gov. Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Patrick Yellin, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A,

Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 564-2970; fax number: (202) 564-0050; email address: yellin.patrick@epa.gov.

SUPPLEMENTARY INFORMATION:

Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed either online at www.regulations.gov, or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202-566-1744. For additional information about EPA's public docket, visit: <http://www.epa.gov/dockets>.

Abstract: The National Emission Standards for Hazardous Air Pollutants (NESHAP) for Polyvinyl Chloride and Copolymers Production (40 CFR part 63, subpart HHHHHHHH) apply to both existing and new PVC production facilities. Area source PVC facilities are subject to 40 CFR part 63, subpart DDDDDD and not covered in this ICR. New facilities include those that commenced construction or reconstruction after the date of proposal. In general, all NESHAP standards require initial notifications, performance tests, and periodic reports by the owners/operators of the affected facilities. They are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. These notifications, reports, and records are essential in determining compliance, and are required of all affected facilities subject to NESHAP. This information is being collected to assure compliance with 40 CFR part 63, subpart HHHHHHHH.

Form Numbers: None.

Respondents/affected entities: Polyvinyl chloride and copolymer production facilities that are major sources of HAP.

Respondent's obligation to respond: Mandatory (40 CFR part 63, subpart HHHHHHHH).

Estimated number of respondents: 15 (total).

Frequency of response: Initially, occasionally, and semiannually.

Total estimated burden: 338,000 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: \$45,500,000 (per year), which includes \$7,060,000 in annualized capital/startup and/or operation & maintenance costs.

Changes in the Estimates: There is a decrease in the burden hours in this

ICR, compared to the previous ICR, due to a decrease in the number of respondents. In addition, there is an increase in operation and maintenance costs due to updated cost estimates for process vent testing, which were provided by the Vinyl Institute.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2019-05016 Filed 3-15-19; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-9990-99-Region 10]

Issuance of a NPDES General Permit for Offshore Seafood Processors in Federal Waters Off the Coast of Washington and Oregon; Permit Number WAG520000

AGENCY: Environmental Protection Agency.

ACTION: Final NPDES General Permit.

SUMMARY: The Environmental Protection Agency (EPA) Region 10 is issuing a National Pollutant Discharge Elimination System (NPDES) General Permit to seafood processing vessels that discharge in Federal Waters off the coast of Washington and Oregon. The General Permit will authorize discharges of seafood processing waste from the vessels. This is the first issuance of this General Permit, and the first time this sector has received NPDES permit coverage off the coast of Oregon and Washington.

DATES: The issuance date of the General Permit is March 18, 2019, the date of publication of this notice. The General Permit will become effective on May 1, 2019.

ADDRESSES: Copies of the General Permit and Response to Comments are available upon request at the following address: USEPA Region 10, 1200 Sixth Avenue, Suite 155, OWW-191, Seattle, WA 98101. Electronic requests may be mailed to: Washington.audrey@epa.gov.

FOR FURTHER INFORMATION CONTACT: Technical Information: Joseph Ziobro at (206) 553-2723 ziobro.joseph@epa.gov. The General Permit, Response to Comments, and supporting documents may be found on the Region 10 website at: <https://www.epa.gov/npdes-permits/proposed-mpdes-general-permit-offshore-seafood-processors-federal-waters-coast>.

SUPPLEMENTARY INFORMATION:

General Information

The NPDES General Permit authorizes discharges of seafood processing waste

from seafood processing vessels that discharge in Federal Waters off the coast of Washington and Oregon. Federal Waters are defined as waters that are located between 3 and 200 miles from the land or baseline. The General Permit does not authorize discharges within the State of Washington or State of Oregon waters, this includes water within three miles of the land (*i.e.*, the State's territorial waters). The State of Washington and the State of Oregon are the permitting authorities for these state waters.

The EPA completed two public comment periods for the draft General Permit. The first comment period was from August 24, 2015 to October 8, 2015 (80 FR 51253, August 24, 2015). Based on the comments received during the public comment period, the EPA revised the draft General Permit. The EPA took comment on those revisions during a second comment period from June 6, 2017 to August 3, 2017 (82 FR 27817, June 6, 2017).

This will be the first issuance of this General Permit. The offshore seafood processing operators requested NPDES permit coverage for operations discharging off the coast of Washington and Oregon, since these vessels are currently discharging without a permit in this area. The vessels that will be covered under this Permit are catcher-processors and motherships. These vessels fish and process the fish caught concurrently.

Other Legal Requirements

Regulatory Action

This action is not significant and was therefore not submitted to the Office of Management and Budget (OMB) for review under Executive Orders 12866, Regulatory Planning and Review, and 13563, Improving Regulation and Regulatory Review.

Coastal Zone Management Act—Federal Consistency Determination

Beginning in 2016, the EPA began engaging with the Washington Department of Ecology (Washington) and the Oregon Department of Land Conservation and Development (Oregon) in Coastal Zone Management Act (CZMA) consistency review pursuant to Section 307 of the CZMA and its implementing regulations at 15 CFR part 930, subpart C. In June 2017, the EPA provided the Washington Department of Ecology and Oregon Department of Land Conservation and Development with a Federal Consistency Determination for the permit action. The EPA determined that the General Permit is fully consistent

with the enforceable polices of the approved coastal zone management programs administered by the States of Washington and Oregon. In September 2017, Ecology and Oregon sent conditional concurrences in response to the EPA's Consistency Determination. The EPA and Ecology resolved Ecology's conditional concurrence through the addition of monitoring requirements in the General Permit. However, the EPA and Oregon did not reach resolution; thus, Oregon's conditional concurrence became an objection. Therefore, as required by 15 CFR 930.31(d), the EPA is notifying potential users of the General Permit that the General Permit is not available for use in the State of Oregon unless the potential user provides Oregon with a consistency certification under 15 CFR part 930, subpart D and Oregon concurs. The EPA does not anticipate that potential users of the General Permit will need to provide Oregon with a consistency certification because the General Permit does not authorize discharges within the State of Oregon, including Oregon state waters, and NOAA has not authorized Oregon to review such activities under 15 CFR part 930, subpart D. As such, the EPA anticipates that it will be able to acknowledge permit coverage for individual operations promptly after receipt of a Notice of Intent.

Impact on Small Businesses

After review of the facts as presented in the permit applications, fact sheets, and response to comments document, the EPA concludes that this general NPDES permit will not have a significant impact on a substantial number of small entities. Moreover, this Permit does not present a significant administrative burden on regulated sources.

Dated: March 1, 2019.

Daniel D. Opalski,

Office Director, Office of Water and Watersheds, Region 10.

[FR Doc. 2019-05033 Filed 3-15-19; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OECA-2014-0086; FRL-9990-10-OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NESHAP for Flexible Polyurethane Foam Fabrication (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), NESHAP for Flexible Polyurethane Foam Fabrication (EPA ICR No. 2027.07, OMB Control No. 2060-0516), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through March 31, 2019. Public comments were previously requested, via the **Federal Register**, on May 30, 2018 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An agency may neither conduct nor sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before April 17, 2019.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA-HQ-OECA-2014-0086, to: (1) EPA online using www.regulations.gov (our preferred method), or by email to docket.oeca@epa.gov, or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460; and (2) OMB via email to oira_submission@omb.eop.gov. Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Patrick Yellin, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A,

Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 564-2970; fax number: (202) 564-0050; email address: yellin.patrick@epa.gov.

SUPPLEMENTARY INFORMATION:

Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at www.regulations.gov, or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202-566-1744. For additional information about EPA's public docket, visit: <http://www.epa.gov/dockets>.

Abstract: The National Emission Standards for Hazardous Air Pollutants (NESHAP) for Integrated Iron and Steel Manufacturing Facilities (40 CFR part 63, subpart FFFFF) apply to new and existing sinter plants, blast furnaces, and basic oxygen process furnace shops at integrated iron and steel manufacturing facilities that are major sources of hazardous air pollutants (HAPs) or are co-located at major sources. New facilities include those that commenced either construction or reconstruction after the date of proposal. In general, all NESHAP standards require initial notifications, performance tests, and periodic reports by the owners/operators of the affected facilities. They are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. These notifications, reports, and records are essential in determining compliance, and are required of all affected facilities subject to NESHAP. This information is being collected to assure compliance with 40 CFR part 63, subpart FFFFF.

Form Numbers: None.

Respondents/affected entities: Flexible polyurethane foam fabrication facilities.

Respondent's obligation to respond: Mandatory (40 CFR part 63, subpart MMMMM).

Estimated number of respondents: 20 (total).

Frequency of response: Initially, occasionally, semiannually, and annually.

Total estimated burden: 22,200 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: \$2,560,000 (per year), which includes \$34,500 in annualized capital/startup and/or operation & maintenance costs.

Changes in the Estimates: There is an increase in the total estimated respondent burden compared with the ICR currently approved by OMB. The increase in burden is not due to any program changes, but is due to an adjustment. The adjustment increase in burden from the most-recently approved ICR is due to an increase in the number of new or modified sources due to continued industry growth. In addition, the burden estimate for reading and understanding the rule requirements was adjusted to reflect the time it would take existing respondents to review the rule each year. The overall result is an increase in burden and costs.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2019-05009 Filed 3-15-19; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OAR-2003-0078; FRL-9989-55-OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; Landfill Methane Outreach Program (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has submitted an information collection request (ICR), Landfill Methane Outreach Program (EPA ICR No. 1849.09, OMB Control No. 2060-0446) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through May 31, 2019. Public comments were previously requested via the **Federal Register** on September 5, 2018 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before April 17, 2019.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA-HQ-OAR-2003-0078, to (1) EPA online using www.regulations.gov (our preferred method), or by mail to: EPA Docket Center, Environmental

Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460, and (2) OMB via email to oira_submission@omb.eop.gov. Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Lauren Aepli, Climate Change Division, Office of Atmospheric Programs, (6207A), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 343-9423; fax number: (202) 343-2342; email address: aepli.lauren@epa.gov.

SUPPLEMENTARY INFORMATION: Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at www.regulations.gov or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202-566-1744. For additional information about EPA's public docket, visit <http://www.epa.gov/dockets>.

Abstract: The Landfill Methane Outreach Program (LMOP), created by EPA in 1994, is a voluntary program designed to encourage and facilitate the development of environmentally and economically sound landfill gas (LFG) energy projects across the United States to reduce methane emissions from landfills. LMOP meets these objectives by educating local governments and communities about the benefits of LFG recovery and use; building partnerships between state agencies, industry, energy service providers, local communities, and other stakeholders interested in developing this valuable resource in their community; and providing tools to evaluate LFG energy potential. EPA signs voluntary Memoranda of Understanding (MOUs) with these organizations to enlist their support in promoting cost-effective LFG utilization. The information collection includes completion and submission of the MOU, periodic information updates, and annual completion and submission of basic information on landfill methane projects with which the organizations are involved as an effort to update the LMOP Landfill and Landfill Gas Energy

Project Database. The information collection is to be utilized to maintain up-to-date data and information about LMOP Partners and LFG energy projects with which they are involved. The data will also be used by the public to access LFG energy project development opportunities in the United States. In addition, the information collection will assist the program in evaluating the reduction of methane emissions from landfills.

Form Numbers: 5900-157, 5900-158, 5900-159, 5900-160, and 5900-161.

Respondents/affected entities: Private companies and municipalities that own or operate landfills; manufacturers and suppliers of equipment/knowledge to capture and utilize LFG; utility companies; end-users of energy from landfills; developers of LFG energy projects; State agencies; and other LFG energy stakeholders.

Respondent's obligation to respond: Voluntary.

Estimated number of respondents: 1,137 (total).

Frequency of response: On occasion.

Total estimated burden: 2,270 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: \$194,890 (per year) total annual respondent burden, includes \$0 annualized capital or operation & maintenance costs.

Changes in the Estimates: There is decrease of 252 hours in the total estimated respondent burden compared with the ICR currently approved by OMB. This decrease is due to transition to an electronic collection of updates to landfill methane projects with which the organizations are involved.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2019-05006 Filed 3-15-19; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act ("Act") (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the 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 4, 2019.

A. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *The RFB–FLB Trust, U/A/D October 25, 2016, and Frances L. Biolchini, as Trustee, both of Kelly, Wyoming; to retain shares of and to be approved as members of the Biolchini Family Group. Additionally, Robert Biolchini, Jr., Jackson, Wyoming; Douglas Biolchini, Walla Walla, Washington; Frances Biolchini Fleming, Kelly, Wyoming; Thomas Biolchini, Tulsa, Oklahoma; Tobin Biolchini, Kelly, Wyoming; Christi Biolchini Yanelli, Jackson, Wyoming; and the Robert F. Biolchini & Frances L. Biolchini Irrevocable Education Trust for Lucy Rose Biolchini, the Robert F. Biolchini & Frances L. Biolchini Irrevocable Education Trust for Maximilian Michael Fleming, the Robert F. Biolchini & Frances L. Biolchini Irrevocable Education Trust for Sophia Grace Fleming, and the Robert F. Biolchini & Frances L. Biolchini Irrevocable Education Trust for Paul Christopher Biolchini, all of Tulsa, Oklahoma as members of the Biolchini Family Group; to retain shares of Bancshares of Jackson Hole, Incorporated and thereby indirectly retain shares of Bank of Jackson Hole, Jackson, Wyoming.*

Board of Governors of the Federal Reserve System, March 13, 2019.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2019–05026 Filed 3–15–19; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 12, 2019.

A. Federal Reserve Bank of Boston (Prabal Chakrabarti, Senior Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02210–2204. Comments can also be sent electronically to BOS.SRC.Applications.Comments@bos.frb.org:

1. *HarborOne Northeast Bancorp Inc., Brockton, Massachusetts; to become a bank holding company by acquiring HarborOne Bank, Brockton, Massachusetts, in connection with the conversion of HarborOne Mutual Bancshares, Brockton, Massachusetts from mutual to stock form.*

B. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *Old O'Brien Banc Shares, Inc., Sutherland, Iowa; to merge with R & J Financial Corporation, Inc. and thereby indirectly acquire Peoples Savings Bank, both of Elma, Iowa.*

2. *Pella Financial Group, Inc., Pella, Iowa; to acquire 100 percent of Iowa State Savings Bank, Knoxville, Iowa.*

Board of Governors of the Federal Reserve System, March 13, 2019.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2019–05027 Filed 3–15–19; 8:45 am]

BILLING CODE P

GENERAL SERVICES ADMINISTRATION

[Notice–PBS–2019–03; Docket No. 2019–0002; Sequence No. 5]

Notice of Availability of the Draft Environmental Impact Statement for the Expansion and Modernization of the San Luis I Land Port of Entry, San Luis, Arizona

AGENCY: Public Buildings Service, (PBS), General Services Administration (GSA).

ACTION: Notice of availability; Announcement of public meeting.

SUMMARY: This notice announces the availability, and opportunity for public review and comment, of the Draft Environmental Impact Statement (DEIS), which analyzes the potential environmental impacts of a proposal by GSA to expand and modernize the San Luis I Land Port of Entry (LPOE) located in San Luis, Arizona along the U.S.–Mexico international border. The DEIS describes the project purpose and need, the alternatives being considered, and the potential impacts of each alternative on the existing environment. As the lead agency for this undertaking, GSA is acting on behalf of its major tenant at the facility, the Department of Homeland Security's U.S. Customs and Border Protection (CBP).

DATES: A public meeting for the DEIS will be held on Wednesday, April 17, 2019, from 4:00 p.m. to 6:00 p.m., Mountain Standard Time (MST). Interested parties are encouraged to attend and provide written comments on the DEIS. The comment period for the DEIS ends on Monday, April 29, 2019.

ADDRESSES: The public meeting will be held in the City Council Chambers at 1090 E Union Street, San Luis, AZ. The meeting will be an informal open house, where visitors may come, receive information, and provide written comments.

Further information, including an electronic copy of the DEIS may be found online on the following website: <https://www.gsa.gov/about-us/regions/welcome-to-the-pacific-rim-region-9/land-ports-of-entry/san-luis-i-land-port-of-entry>.

Questions or comments concerning the DEIS should be directed to: Osmahn Kadri, Regional Environmental Quality Advisor/NEPA Project Manager, 50 United Nations Plaza, Room 3345 Mailbox 9, San Francisco, CA 94102 or via email to osmahn.kadri@gsa.gov.

FOR FURTHER INFORMATION CONTACT: Osmahn Kadri, Regional Environmental

Quality Advisor/NEPA Program Manager, GSA, at 415-522-3617. Please also call this number if special assistance is needed to attend and participate in the public meeting.

SUPPLEMENTARY INFORMATION:

Background

The San Luis I LPOE is located on the U.S.-Mexico international border in the City of San Luis, Arizona. It is the westernmost LPOE in Arizona and is approximately four miles from the California border. The San Luis I LPOE was built in 1982 to accommodate noncommercial traffic to and from Mexico. The facilities at the LPOE are in a deteriorated condition and are inadequate for the present volume of pedestrian and vehicle traffic. There has been a 58 percent increase in the number of personal vehicles processed since 2010. The higher volume and outdated facilities create long wait times, leading to traffic backups in downtown San Luis.

GSA is proposing to expand and modernize the San Luis I LPOE to correct operational deficiencies imposed by deteriorating building conditions and improve the LPOE's functionality, capacity, and security. Three alternatives, the Proposed Action Alternative, Alternative 1, and the No Action Alternative, are evaluated in the DEIS.

Proposed Action Alternative—Demolition and Redevelopment. GSA would acquire the land adjacent to the western end of the LPOE, the former Friendship Park, and the LPOE would be reconfigured to streamline CBP operations and inspection processes. GSA would demolish the old, deteriorated buildings and construct new buildings and infrastructure on the expanded site to accommodate the increasing volume of pedestrian and vehicle traffic. The Proposed Action would be implemented in a phased approach to alleviate potential disruptions to operations at the LPOE.

Alternative 1—Renovate and Modernize. GSA would not acquire former Friendship Park, but would renovate and modernize all existing facilities and infrastructure at the LPOE. The LPOE layout would remain as currently configured, and current traffic patterns entering and leaving the LPOE would remain the same.

No Action Alternative. GSA would not renovate or modernize any portion of the LPOE. The LPOE would remain as-is and continue its operations in facilities as they are currently configured.

Public Meeting

The meeting will be conducted in an open house format, where project information will be presented and distributed. Comments must be received by April 29, 2019, and emailed to osmahn.kadri@gsa.gov, or sent to the address listed above.

Dated: March 13, 2019.

Moonyeen Alameida,

Acting Director, Portfolio Management Division, Pacific Rim Region, Public Buildings Service.

[FR Doc. 2019-04985 Filed 3-15-19; 8:45 am]

BILLING CODE 6820-YF-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Docket Number CDC-2019-0016, NIOSH-325]

Mining Automation and Safety Research Prioritization

AGENCY: National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Request for information and comment.

SUMMARY: The National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC) has recently established a research program to address the rapidly expanding area of automation and associated technologies in mining. NIOSH is requesting information to inform the prioritization of research to be undertaken by The Institute's Mining Program. NIOSH is seeking input on priority gaps in knowledge regarding the safety and health implications of humans working with automated equipment and associated technologies in mining, with an emphasis on worker safety and health research in which NIOSH has the comparative advantage, and is unlikely to be undertaken by other federal agencies, academia, or the private sector.

DATES: Electronic or written comments must be received by May 17, 2019.

ADDRESSES: You may submit comments, identified by CDC-2019-0016 and NIOSH-325, by any of the following methods:

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

- *Mail:* National Institute for Occupational Safety and Health, NIOSH Docket Office, 1090 Tusculum Avenue, MS C-34, Cincinnati, Ohio 45226-1998.

Instructions: All information received in response to this notice must include the agency name and docket number [CDC-2019-0016; NIOSH-325]. All relevant comments received will be posted without change to <https://www.regulations.gov>, including any personal information provided. For access to the docket to read background documents or comments received, go to <https://www.regulations.gov>. All information received in response to this notice will also be available for public examination and copying at the NIOSH Docket Office, 1150 Tusculum Avenue, Room 155, Cincinnati, OH 45226-1998.

FOR FURTHER INFORMATION CONTACT:

Jeffrey H. Welsh, NIOSH Office of Mine Safety and Health Research, 315 E Montgomery Ave., Spokane, WA 99207. Phone: 412-386-4040 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background: The mining industry has been undergoing significant changes as companies look to adopt automation technologies to decrease costs and increase efficiency and, according to some companies, improve safety. These new technologies include automated mobile equipment, robotics, teleoperation, wireless communications and sensing systems, wearable sensors and computers, virtual and augmented reality, and data analytics. Surface iron ore mines in Western Australia are moving rapidly to adopt automation technologies, and they appear to be the closest in achieving completely autonomous mining. In U.S. mines, the adoption of automation technology is gaining momentum, with some of the first automation having been applied to processing facilities, drilling equipment, underground coal mine longwalls, and now pilot projects with automated haulage trucks and loaders.

Information Needs: To prepare for expanded use of automation technologies, NIOSH seeks to both proactively address worker health and safety challenges that may be associated with automation, as well as leverage new technologies to improve miner health and safety. To understand the state of automation technologies, their implementation in the United States, and the health and safety concerns associated with the technology, NIOSH seeks public input on the following questions:

1. To what extent will automation and associated technologies be implemented in mining and in what timeframe?

2. What are the related health and safety concerns with automation and associated technologies in mining?

3. What gaps exist in occupational health and safety research related to automation and associated technologies?

While the above questions have priority, NIOSH also seeks public comment on the state of the technology and the health and safety concerns associated with the following specific topics related to automation:

4. What are the major safety concerns associated with humans working near or interacting with automated mining equipment? Have other organizations addressed the safety concerns associated with humans working near or interacting with automated mining equipment? If yes, please provide a description.

5. What research has been conducted, or approaches taken, to address the potential for human cognitive processing confusion, misunderstanding, and task or information overload associated with monitoring or controlling automated mining equipment or other monitoring systems (e.g., fleet management, environmental monitoring, safety systems, health care systems)?

6. What is the state of the art for display methodologies and technologies to provide mine personnel and equipment operators with information on operational status, location, and sensory and environmental feedback from automated mining equipment or systems?

7. What sensor technology improvements are needed to ensure the safety of humans working on or near automated equipment?

8. How are existing methods of big data analytics applied to automated mining equipment or systems? Are there health and safety benefits to these applications? If yes, please describe.

9. Are there any needed improvements to guidelines or industry standards for automated mining system safe design and operation practices? If yes, please describe.

10. Are there any needed improvements to training materials, training protocols, and operating procedures for system safety design principles related to automated mining systems? If yes, please describe.

NIOSH is seeking feedback on the research areas identified above and on any additional knowledge gaps, ideas, innovations, or practice improvements not addressed by these research areas, as well as feedback on how the research areas should be prioritized. NIOSH is especially interested in any creative and

new ideas as they relate to protecting the health and safety of miners today and in the future. When possible, NIOSH asks that commenters provide data and citations of relevant research to justify their comments. NIOSH is also seeking key scientific articles addressing worker safety and health related to mining automation that could inform our research activities.

References

- DoD [2000]. Standard practice for system safety. U.S. Department of Defense, MIL-STD-882D.
- Endsley MR [1995]. Toward a theory of situational awareness in dynamic systems. *Hum Factors* 37(1):32–64.
- USBM [1988]. Human factors in mining. By Sanders MS, Peay JM. Pittsburgh, PA: U.S. Department of the Interior, Bureau of Mines, IC 9182.

Frank J. Hearl,

Chief of Staff, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention.

[FR Doc. 2019–04926 Filed 3–15–19; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–3370–FN]

Medicare and Medicaid Programs: Approval of an Application From the Accreditation Association for Hospitals and Health Systems/Healthcare Facilities Accreditation Program for Continued CMS Approval of Its Hospital Accreditation Program

AGENCY: Centers for Medicare and Medicaid Services, HHS.

ACTION: Final notice.

SUMMARY: This final notice announces our decision to approve the Accreditation Association for Hospitals and Health Systems/Healthcare Facilities Accreditation Program (AAHHS/HFAP) (formerly known as the American Osteopathic Association/Healthcare Facilities Accreditation Program (AOA/HFAP)) for continued recognition as a national accrediting organization for hospitals that wish to participate in the Medicare or Medicaid programs.

DATES: This final notice is effective September 25, 2019 through September 25, 2023.

FOR FURTHER INFORMATION CONTACT: Tara Lemons (410) 786–3030, Mary Ellen Palowitch (410) 786–4496, or Monda Shaver, (410) 786–3410.

SUPPLEMENTARY INFORMATION:

I. Background

A healthcare provider may enter into an agreement with Medicare to participate in the program as a hospital provided certain requirements are met. Section 1861(e) of the Social Security Act (the Act) establishes criteria for providers seeking participation in Medicare as a hospital. Regulations concerning Medicare provider agreements in general are at 42 CFR part 489 and those pertaining to the survey and certification for Medicare participation of providers and certain types of suppliers are at 42 CFR part 488. The regulations at 42 CFR part 482 specify the specific conditions that a provider must meet to participate in the Medicare program as a hospital. Hospitals that wish to be paid under the Medicaid program must be approved to participate in Medicare, in accordance with 42 CFR 440.10(a)(3)(iii).

Generally, to enter into a Medicare hospital provider agreement, a facility must first be certified as complying with the conditions set forth in part 482 and recommended to the Centers for Medicare & Medicaid Services (CMS) for participation by a State survey agency. Thereafter, the hospital is subject to periodic surveys by a State survey agency to determine whether it continues to meet these conditions. However, there is an alternative to certification surveys by State agencies. Accreditation by a nationally recognized Medicare accreditation program approved by CMS may substitute for both initial and ongoing state review.

Section 1865(a)(1) of the Act provides that, if the Secretary of the Department of Health and Human Services (the Secretary) finds that accreditation of a provider entity by an approved national accrediting organization meets or exceeds all applicable Medicare conditions, we may treat the provider entity as having met those conditions, that is, we may “deem” the provider entity to be in compliance.

Accreditation by an accrediting organization is voluntary and is not required for Medicare participation.

Part 488, subpart A, implements the provisions of section 1865 of the Act and requires that a national accrediting organization applying for approval of its Medicare accreditation program must provide CMS with reasonable assurance that the accrediting organization requires its accredited provider entities to meet requirements that are at least as stringent as the Medicare conditions. Our regulations concerning the approval of accrediting organizations are set forth at § 488.5. The regulations at §

488.5(e)(2)(i) require an accrediting organization to reapply for continued approval of its Medicare accreditation program every 6 years or sooner as determined by CMS. On January 14, 2019, CMS recognized the change in ownership from American Osteopathic Association/Healthcare Facilities Accreditation Program (AOA/HFAP) to the new owner, Accreditation Association for Hospitals and Health Systems/Healthcare Facilities Accreditation Program (AAHHS/HFAP). This recognition included a transfer and continuation of CMS-approval for AAHHS/HFAP's hospital accreditation program, as was published under the AOA/HFAP approval on August 28, 2013. AAHHS/HFAP's term of approval as a recognized Medicare accreditation program for hospitals expires September 25, 2019.

II. Application Approval Process

Section 1865(a)(3)(A) of the Act provides a statutory timetable to ensure that our review of applications for CMS-approval of an accreditation program is conducted in a timely manner. The Act provides us 210 days after the date of receipt of a complete application, with any documentation necessary to make the determination, to complete our survey activities and application process. Within 60 days after receiving a complete application, we must publish a notice in the **Federal Register** that identifies the national accrediting body making the request, describes the request, and provide no less than a 30-day public comment period. At the end of the 210-day period, we must publish a notice in the **Federal Register** approving or denying the application.

III. Provisions of the Proposed Notice

On October 17, 2018, we published a proposed notice in the **Federal Register** (83 FR 52458) announcing AAHHS/HFAP's request for continued approval of its Medicare hospital accreditation program. In the proposed notice, we detailed our evaluation criteria. Under section 1865(a)(2) of the Act and in our regulations at § 488.5, we conducted a review of AAHHS/HFAP's Medicare hospital accreditation application in accordance with the criteria specified by our regulations, which include, but are not limited to the following:

- An onsite administrative review of AAHHS/HFAP's: (1) Corporate policies; (2) financial and human resources available to accomplish the proposed

surveys; (3) procedures for training, monitoring, and evaluation of its hospital surveyors; (4) ability to investigate and respond appropriately to complaints against accredited hospitals; and, (5) survey review and decision-making process for accreditation.

- A comparison of AAHHS/HFAP's Medicare accreditation program standards to our current Medicare hospital Conditions of Participation (CoP).

- A documentation review of AAHHS/HFAP's survey process to do the following:

++ Determine the composition of the survey team, surveyor qualifications, and AAHHS/HFAP's ability to provide continuing surveyor training.

++ Compare AAHHS/HFAP's processes to those we require of State survey agencies, including periodic resurvey and the ability to investigate and respond appropriately to complaints against accredited hospitals.

++ Evaluate AAHHS/HFAP's procedures for monitoring hospitals it has found to be out of compliance with AAHHS/HFAP's program requirements. (This pertains only to monitoring procedures when AAHHS/HFAP identifies non-compliance. If non-compliance is identified by a State survey agency through a validation survey, the State survey agency monitors corrections as specified at § 488.9(c)).

++ Assess AAHHS/HFAP's ability to report deficiencies to the surveyed hospitals and respond to the hospital's plan of correction in a timely manner.

++ Establish AAHHS/HFAP's ability to provide CMS with electronic data and reports necessary for effective validation and assessment of the organization's survey process.

++ Determine the adequacy of AAHHS/HFAP's staff and other resources.

++ Confirm AAHHS/HFAP's ability to provide adequate funding for performing required surveys.

++ Confirm AAHHS/HFAP's policies with respect to surveys being unannounced.

++ Obtain AAHHS/HFAP's agreement to provide CMS with a copy of the most current accreditation survey together with any other information related to the survey as we may require, including corrective action plans.

In accordance with section 1865(a)(3)(A) of the Act, the October 17, 2018 proposed notice also solicited

public comments regarding whether AAHHS/HFAP's requirements met or exceeded the Medicare CoP for hospitals. There were no comments submitted.

IV. Provisions of the Final Notice

A. Differences Between AAHHS/HFAP's Standards and Requirements for Accreditation and Medicare Conditions and Survey Requirements

We compared AAHHS/HFAP's hospital accreditation requirements and survey process with the Medicare CoP at part 482, and the survey and certification process requirements of parts 488 and 489. AAHHS/HFAP's standards crosswalk, which maps AAHHS/HFAP's standards with the corresponding requirements under the Medicare CoP, was also examined to ensure that the appropriate CMS regulation was included in citations as appropriate. We reviewed and evaluated AAHHS/HFAP's hospital application, as described in section III of this final notice. This review yielded the following areas where, as of the date of this notice, AAHHS/HFAP has revised its standards and certification processes:

- § 482.13(e), to ensure that AAHHS/HFAP's crosswalk reflects the comparable restraint and seclusion requirements.
- § 482.13(h)(1) through § 482.13(h)(4) regarding patient visitation rights, to ensure that redundant language in its standards is removed.
- § 482.15(d)(1)(i) regarding emergency preparedness training, to ensure AAHHS/HFAP's standards require a comparable standard to this CMS requirement.
- § 482.15(d)(1)(iii) regarding documentation of emergency preparedness training, to ensure AAHHS/HFAP's standards require compliance with this CMS requirement.
- § 482.15(d)(1)(iv) regarding demonstration of staff knowledge of emergency preparedness procedures, to ensure AAHHS/HFAP's standards require compliance with this CMS requirement.
- § 482.15(d)(2)(i) through § 482.15(d)(2)(ii)(B), to ensure AAHHS/HFAP's standards require compliance with these CMS requirements regarding staff emergency preparedness testing.
- § 482.15(e)(3), to clarify its requirement related to maintaining an emergency onsite fuel source.

- § 482.15(f)(4) through § 482.15(f)(5), to address these CMS requirements regarding emergency plans, policies and procedures for integrated health care systems.

- § 482.21, to ensure that redundant language regarding the Quality Assessment and Performance Improvement Condition of participation is removed.

- § 482.23(b)(1) regarding nursing services, to ensure that CMS references are accurately referenced.

- § 482.27(b)(11) regarding hepatitis C virus notifications, to ensure that redundant language in its standard is removed.

- § 482.41(a)(2), to ensure that the requirement for emergency water supply for structures is adequately addressed.

- § 482.41(b)(1)(i) and § 482.41(b)(2), to ensure that the 2012 edition of the Life Safety Code is accurately referenced.

- § 482.41(b)(7), to clarify that Alcohol-Based Hand Rub dispensers are permitted to be installed in areas other than exit access corridors.

- § 482.41(b)(8)(ii), to ensure that fire watches are to be maintained until the system is back in service.

- § 488.5(a)(4)(ii), to ensure that survey activities, including the review of all records, are administered in a comprehensive method comparable to CMS processes.

- § 488.5(a)(4)(iii), to ensure that patient sample sizes are based on the hospital's average daily census and meets minimum sample requirements; and to ensure compliance with AAHHS/HFAP's policies related to documentation related to medical record review.

- § 488.5(a)(4)(iv), to ensure findings of non-compliance are documented under all appropriate CMS standards where non-compliance is found; and to ensure that all citations of noncompliance accurately identify the appropriate CMS requirement.

- § 488.5(a)(12), to ensure that its complaint investigations address the minimum patient sample size for review, as applicable.

- § 488.26(b), to ensure that surveyor documentation is reviewed for manner and degree of non-compliance and subsequently cited at the appropriate level (that is, condition versus standard level).

- § 488.28(a), to ensure that facility plans of correction contain all required elements to be considered comparable to CMS.

B. Term of Approval

Based on our review and observations described in section III of this final

notice, we have determined that AAHHS/HFAP's hospital program requirements meet or exceed our requirements. Therefore, we approve AAHHS/HFAP as a national accreditation organization for hospitals that request participation in the Medicare program, effective September 25, 2019 through September 25, 2023.

V. Collection of Information Requirements

This document does not impose information collection requirements, that is, reporting, recordkeeping or third-party disclosure requirements. Consequently, there is no need for review by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Dated: March 12, 2019.

Seema Verma,

Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 2019-05037 Filed 3-15-19; 8:45 am]

BILLING CODE 4120-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier CMS-10157]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (the 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 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of

information technology to minimize the information collection burden.

DATES: Comments must be received by May 17, 2019.

ADDRESSES: When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to <http://www.regulations.gov>. Follow the instructions for "Comment or Submission" or "More Search Options" to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number ____, Room C4-26-05, 7500 Security Boulevard, Baltimore, Maryland 21244-1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' website address at website address at <https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.html>.

2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to Paperwork@cms.hhs.gov.

FOR FURTHER INFORMATION CONTACT: William N. Parham at (410) 786-4669.

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

CMS-10157 The HIPAA Eligibility Transaction System (HETS)

Under the 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 requires federal agencies to publish a

60-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.

Information Collection

1. Type of Information Collection

Request: Revision of a currently approved collection; **Title of Information Collection:** The HIPAA Eligibility Transaction System (HETS); **Use:** HIPAA regulations require covered entities to verify the identity of the person requesting PHI and the person's authority to have access to that information. Under the HIPAA Security rules, covered entities, regardless of their size, are required under 45 CFR Subtitle A, Subpart C 164.312(a)(2)(i) to "assign a unique name and/or number for identifying and tracking user identity." A 'user' is defined in 164.304 as a "person or entity with authorized access" Accordingly, the HIPAA Security rule requires covered entities to assign a unique name and/or number to each employee or workforce member who uses a system that receives, maintains or transmits electronic PHI so that system access and activity can be identified and tracked by user. This pertains to workforce members within small or large provider offices, health plans, group health plans, and clearinghouses. Federal law requires that CMS take precautions to minimize the security risk to the federal information system. Federal Information Processing Standards Publication (FIPS PUB) 101-2 Paragraph 11.7—Security and Authentication states that: "Agencies shall employ risk management techniques to determine the appropriate mix of security controls needed to protect specific data and systems. The selection of controls shall take into account procedures required under applicable laws and regulations."

Accordingly, CMS requires that entities who wish to connect to the HETS application via the CMS Extranet and/or internet are uniquely identified. CMS is required to verify the identity of the person requesting the Protected Health Information (PHI) and the person's authority to have access to Medicare eligibility information. Furthermore, CMS requires that trading partners who wish to conduct eligibility transactions on a real-time basis with CMS provide certain assurances as a condition of receiving access to the Medicare eligibility information for the purpose of conducting real-time 270/271 inquiry/response transactions. **Form Number:** CMS-10157 (OMB control number: 0938-0960); **Frequency:** Yearly; **Affected Public:** Private Sector; Business or other for profits, Not-for-Profits Institutions; **Number of Respondents:** 1000; **Total Annual Responses:** 1000; **Total Annual Hours:** 250. (For policy questions regarding this collection contact Rupinder Singh at 410 786-7484.)

Dated: March 13, 2019.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2019-05029 Filed 3-15-19; 8:45 am]

BILLING CODE 4120-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Document Identifier: OS-0945-0002]

Agency Information Collection Request. 60-Day Public Comment Request

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: In compliance with the requirement of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed collection for public comment.

DATES: Comments on the ICR must be received on or before May 17, 2019.

ADDRESSES: Submit your comments to Sherrette.Funn@hhs.gov or by calling (202) 795-7714.

FOR FURTHER INFORMATION CONTACT:

When submitting comments or requesting information, please include the document identifier 0945-0002-60D, and project title for reference, to Sherrette Funn, the Reports Clearance Officer, Sherrette.funn@hhs.gov, or call 202-795-7714.

SUPPLEMENTARY INFORMATION: Interested persons are invited to send comments regarding this 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.

Title of the Collection: Health Information Privacy and Civil Rights/Conscience and Religious Freedom Discrimination Complaint.

Type of Collection: Revision.

OMB No.: 0945-0002.

Abstract: The Office for Civil Rights is seeking a revision on an approval for a 3-year clearance on a previous collection. Individuals may file written or electronic complaints with the Office for Civil Rights when they believe they have been discriminated against by programs or entities that receive Federal financial assistance from the Health and Human Service or if they believe that their right to the privacy of protected health information freedom has been violated. Annual Number of Respondents frequency of submission is record keeping and reporting on occasion.

ESTIMATED ANNUALIZED BURDEN TABLE

Written forms/electronic forms	Type of respondent	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Civil Rights/Conscience Religious Freedom Discrimination Complaint.	Individuals or households, Not-for-profit institutions.	8,433	1	45/60	6,325
Health Information Privacy Complaint.	Individuals or households, Not-for-profit institutions.	25,299	1	45/60	18,974
Total .....	.....	.....	.....	.....	25,299

Terry Clark,
Information Collection Clearance Officer.
 [FR Doc. 2019-04930 Filed 3-15-19; 8:45 am]
BILLING CODE 4153-01-P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA-2019-0002; Internal Agency Docket No. FEMA-B-1910]

Proposed Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report, once effective, will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings.

DATES: Comments are to be submitted on or before June 17, 2019.

ADDRESSES: The Preliminary FIRM, and where applicable, the FIS report for

each community are available for inspection at both the online location <https://www.fema.gov/preliminaryfloodhazarddata> and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at <https://msc.fema.gov> for comparison.

You may submit comments, identified by Docket No. FEMA-B-1910, to Rick Sacibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646-7659, or (email) patrick.sacibit@fema.dhs.gov.

FOR FURTHER INFORMATION CONTACT: Rick Sacibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646-7659, or (email) patrick.sacibit@fema.dhs.gov; or visit the FEMA Map Information eXchange (FMIX) online at https://www.floodmaps.fema.gov/fhm/fmx_main.html.

SUPPLEMENTARY INFORMATION: FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP and are used to calculate the appropriate flood insurance premium rates for new buildings built after the FIRM and FIS report become effective.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at https://www.floodsrp.org/pdfs/srp_overview.pdf.

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location <https://www.fema.gov/preliminaryfloodhazarddata> and the respective Community Map Repository address listed in the tables. For communities with multiple ongoing Preliminary studies, the studies can be identified by the unique project number and Preliminary FIRM date listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at <https://msc.fema.gov> for comparison. (Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

Michael M. Grimm,
Assistant Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.

Community	Community map repository address
Clayton County, Iowa and Incorporated Areas Project: 16-07-2169S Preliminary Date: July 23, 2018	
City of Clayton	City Hall, 302 Main Street, Clayton, IA 52049.
City of Edgewood	City Hall, 203 West Union Street, Edgewood, IA 52042.
City of Elkader	City Hall, 207 North Main Street, Elkader, IA 52043.
City of Elkport	City Hall, 453 Linn Street, Elkport, IA 52044.
City of Farmersburg	City Hall, 208 South Main Street, Farmersburg, IA 52047.
City of Garber	City Hall, 604 Hill Street, Garber, IA 52048.

Community	Community map repository address
City of Garnavillo	City Hall, 104 North Main Street, Garnavillo, IA 52049.
City of Guttenberg	City Hall, 502 South 1st Street, Guttenberg, IA 52052.
City of Luana	City Hall, 304 Main Street, Luana, IA 52156.
City of Marquette	City Hall, 102 North Street, Marquette, IA 52158.
City of McGregor	City Hall, 416 Main Street, McGregor, IA 52157.
City of Monona	City Hall, 104 East Center Street, Monona, IA 52159.
City of North Buena Vista	City Hall, 502 Walnut Street, North Buena Vista, IA 52066.
City of Osterdock	Osterdock City Hall, 3181 Lynx Avenue, Colesburg, IA 52035.
City of St. Olaf	City Hall, 109 South Main Street, St. Olaf, IA 52072.
City of Strawberry Point	City Hall, 111 Commercial Street, Strawberry Point, IA 52076.
City of Volga	City Hall, 505 Washington Street, Volga, IA 52077.
Unincorporated Areas of Clayton County	Clayton County Courthouse, 111 High Street Northeast, Elkader, IA 52043.

Des Moines County, Iowa and Incorporated Areas
Project: 16-07-2202S Preliminary Date: August 27, 2018

City of Burlington	Development Department, 400 Washington Street, Burlington, IA 52601.
City of Danville	City Hall, 105 West Shepherd Street, Danville, IA 52623.
City of Mediapolis	City Hall, 510 Main Street, Mediapolis, IA 52637.
City of West Burlington	City Hall, 122 Broadway Street, West Burlington, IA 52655.
Unincorporated Areas of Des Moines County	Southeast Iowa Regional Planning Commission, 211 North Gear Avenue, Suite 100, West Burlington, IA 52655.

Dubuque County, Iowa and Incorporated Areas
Project: 16-07-2220S Preliminary Date: August 27, 2018

City of Asbury	City Hall, 5290 Asbury Road, Asbury, IA 52002.
City of Cascade	City Hall, 320 1st Avenue West, Cascade, IA 52033.
City of Dubuque	City Hall, 50 West 13th Street, Dubuque, IA 52001.
City of Durango	City Hall, 833 U.S. Highway 52 North, Durango, IA 52039.
City of Dyersville	City Hall, 340 1st Avenue East, Dyersville, IA 52040.
City of Epworth	City Hall, 191 Jacoby Drive East, Epworth, IA 52045.
City of Graf	City Hall, 617 Graf Road, Graf, IA 52039.
City of Luxemburg	City Hall, 202 South Andres Street, Luxemburg, IA 52056.
City of New Vienna	City Hall, 7271 Columbus Street, New Vienna, IA 52065.
City of Peosta	City Hall, 7896 Burds Road, Peosta, IA 52068.
City of Rickardsville	City Hall, 20494 St. Joseph's Drive, Rickardsville, IA 52039.
City of Sageville	City Hall, 11439 Robinhood Drive, Sageville, IA 52001.
City of Worthington	City Hall, 216 1st Avenue West, Worthington, IA 52078.
City of Zwingle	City Hall, 80 Walnut Street, Zwingle, IA 52079.
Unincorporated Areas of Dubuque County	Dubuque County Courthouse, 720 Central Avenue, Dubuque, IA 52001.

Fayette County, Iowa and Incorporated Areas
Project: 16-07-2234S Preliminary Date: April 30, 2018

City of Arlington	City Clerk's Office, 755 Main Street, Arlington, IA 50606.
City of Clermont	City Hall, 505 Larrabee Street, Clermont, IA 52135.
City of Elgin	City Hall, 212 Main Street, Elgin, IA 52141.
City of Fayette	City Hall, 11 South Main Street, Fayette, IA 52142.
City of Hawkeye	Public Library, 104 South 2nd Street, Hawkeye, IA 52147.
City of Maynard	City Clerk's Office, 135 3rd Street Southwest, Maynard, IA 50655.
City of Oelwein	City Hall, 20 2nd Avenue Southwest, Oelwein, IA 50662.
City of Randalia	City Hall, 107 North 2nd Street, Randalia, IA 52164.
City of St. Lucas	City Hall, 101 West Main Street, St. Lucas, IA 52166.
City of Wadena	City Hall, 136 A South Mill Street, Wadena, IA 52169.
City of Waucoma	City Office, 113 1st Avenue Southwest, Waucoma, IA 52171.
City of Westgate	City Clerk's Office, 104 Cass Street, Westgate, IA 50681.
City of West Union	City Hall, 612 Highway 150 South, West Union, IA 52175.
Unincorporated Areas of Fayette County	Fayette County Courthouse, 144 North Vine Street, West Union, IA 52175.

Lee County, Iowa and Incorporated Areas
Project: 16-07-2318S Preliminary Date: August 27, 2018

City of Fort Madison	City Hall, 811 Avenue East, Fort Madison, IA 52627.
City of Houghton	City Hall, 406 2nd Street, Houghton, IA 52631.
City of Keokuk	City Hall, 415 Blondeau Street, Keokuk, IA 52632.
City of Montrose	City Hall, 102 South 2nd Street, Montrose, IA 52639.
Unincorporated Areas of Lee County	Keokuk City Hall, 415 Blondeau Street, Keokuk, IA 52632.

Community	Community map repository address
Grundy County, Missouri and Incorporated Areas Project: 17-07-0145S Preliminary Date: February 23, 2018	
City of Trenton	City Hall, 1100 Main Street, Trenton, MO 64683.
Vernon County, Missouri and Incorporated Areas Project: 17-07-0170S Preliminary Date: May 25, 2018	
Unincorporated Areas of Vernon County	Vernon County Courthouse, 100 West Cherry Street, Suite 6, Nevada, MO 64772.
Thurston County, Washington and Incorporated Areas Project: 13-10-0367S Preliminary Date: June 29, 2018	
City of Tenino	City Hall, 149 Hodgden Street South, Tenino, WA 98589.
Town of Bucoda	Bucoda Community Center, 101A East 7th Street, Bucoda, WA 98530.
Unincorporated Areas of Thurston County	Thurston County Courthouse, 2000 Lakeridge Drive Southwest, Building One, Olympia, WA 98502.
Yakima County, Washington and Incorporated Areas Project: 16-10-0662S Preliminary Date: September 28, 2018	
City of Selah	City Hall, 115 West Naches Avenue, Selah, WA 98942.
City of Tieton	City Hall, 418 Maple Street, Tieton, WA 98947.
City of Yakima	City Hall, 129 North 2nd Street, Yakima, WA 98901.
Unincorporated Areas of Yakima County	Yakima County Public Services, 128 North 2nd Street, Yakima, WA 98901.

[FR Doc. 2019-04956 Filed 3-15-19; 8:45 am]

BILLING CODE 9110-12-P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA-2019-0002; Internal Agency Docket No. FEMA-B-1912]

Proposed Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt

or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report, once effective, will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings.

DATES: Comments are to be submitted on or before June 17, 2019.

ADDRESSES: The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location <https://www.fema.gov/preliminaryfloodhazarddata> and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at <https://msc.fema.gov> for comparison.

You may submit comments, identified by Docket No. FEMA-B-1912, to Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646-7659, or (email) patrick.sacbibit@fema.dhs.gov.

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646-7659, or (email) patrick.sacbibit@fema.dhs.gov.

[.sacbibit@fema.dhs.gov](mailto:sacbibit@fema.dhs.gov); or visit the FEMA Map Information eXchange (FMIX) online at https://www.floodmaps.fema.gov/fhm/fmx_main.html.

SUPPLEMENTARY INFORMATION: FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP and are used to calculate the appropriate flood insurance premium rates for new buildings built after the FIRM and FIS report become effective.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the

flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a

mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at https://www.floodsrp.org/pdfs/srp_overview.pdf.

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location <https://www.fema.gov/preliminaryfloodhazarddata> and the respective Community Map Repository address listed in the tables. For communities with multiple ongoing Preliminary

studies, the studies can be identified by the unique project number and Preliminary FIRM date listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at <https://msc.fema.gov> for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

Michael M. Grimm,

Assistant Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.

Community	Community map repository address
Frederick County, Maryland and Incorporated Areas Project: 14-03-1939S Preliminary Date: September 28, 2018	
City of Brunswick	City Annex, Planning and Zoning Department, 601 East Potomac Street, Brunswick, MD 21716.
City of Frederick	City Office Annex, Engineering Department, 140 West Patrick Street, 3rd Floor, Frederick, MD 21701.
Town of Burkittsville	Town Office, 500 East Main Street, Burkittsville, MD 21718.
Town of Emmitsburg	Planning and Zoning Department, 300A South Seton Avenue, Emmitsburg, MD 21727.
Town of Middletown	Municipal Center, 31 West Main Street, Middletown, MD 21769.
Town of Myersville	Town Hall, 301 Main Street, Myersville, MD 21773.
Town of New Market	Town Hall, 39 West Main Street, New Market, MD 21774.
Town of Thurmont	Town Office, 615 East Main Street, Thurmont, MD 21788.
Town of Walkersville	Town Hall, 21 West Frederick Street, Walkersville, MD 21793.
Town of Woodsboro	Town of Woodsboro, Planning and Zoning Department, Winchester Hall, 12 East Church Street, Frederick, MD 21701.
Unincorporated Areas of Frederick County	Frederick County Planning and Zoning Department, 30 North Market Street, Frederick, MD 21701.
Village of Rosemont	Office of the Burgess, 3513 Petersville Road, Rosemont, MD 21758.
Louisa County, Virginia and Incorporated Areas Project: 18-03-0010S Preliminary Date: August 30, 2018	
Town of Louisa	Town Hall, 212 Fredericksburg Avenue, Louisa, VA 23093.
Town of Mineral	Town Office, 312 Mineral Avenue, Mineral, VA 23117.
Unincorporated Areas of Louisa County	Louisa County Administration Building, 1 Woolfolk Avenue, Louisa, VA 23093.

[FR Doc. 2019-04957 Filed 3-15-19; 8:45 am]

BILLING CODE 9110-12-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS-R2-ES-2018-N168;
FXES11140200000-190-FF02ENEH00]

Draft Environmental Assessment and Draft Habitat Conservation Plan; Davis Ranch, Bexar County, Texas

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for public comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), make available the draft environmental assessment and habitat conservation

plan for development of a 724-acre property in Bexar County, Texas. The Davis McCrary Property Trust has applied to the Service for an incidental take permit (ITP) under the Endangered Species Act. The requested ITP would authorize incidental take of the federally endangered golden-cheeked warbler that could result from activities associated with otherwise lawful activities, including commercial and residential development on the property as a result of vegetation clearing, earth-moving activities, and construction of structures.

DATES: To ensure consideration, written comments must be received or postmarked on or before April 17, 2019.

ADDRESSES: *Accessing Documents:* Internet: dEA, HCP, and ITP application: You may obtain electronic copies of all three of the documents on

the Service's website at <http://www.fws.gov/southwest/es/AustinTexas/>.

U.S. Mail: You may obtain the documents at the following addresses. In your request for documents, please reference Davis Ranch HCP.

- *dEA and HCP:* A limited number of CD-ROM and printed copies of the dEA and HCP are available, by request, from Mr. Adam Zerrenner, Austin Ecological Services Field Office, 10711 Burnet Road, Suite 200, Austin, TX 78758-4460; telephone 512-490-0057; fax 512-490-0974.

- *ITP application:* The ITP application is available by mail from the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Room 6034, Albuquerque, NM 87103.

In-Person: dEA and HCP: Copies of the dEA and HCP are available for

public inspection and review, by appointment (telephone 512-490-0057) and written request only, between the hours of 8 a.m. to 4:30 p.m. at the following locations:

- U.S. Fish and Wildlife Service, 500 Gold Avenue SW, Room 6034, Albuquerque.
- U.S. Fish and Wildlife Service, 10711 Burnet Road, Suite 200, Austin, TX 78758; via phone at 512-490-0057; or via the Federal Relay Service at 800-877-8339.

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service (Service), make available the draft Environmental Assessment (dEA) and the Davis Ranch Habitat Conservation Plan (HCP) for development of the 724-acre property in Bexar County, Texas (permit area). The Davis McCrary Property Trust (applicant) has applied to the Service for an incidental take permit (ITP; TE 204410 under section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The requested ITP, which would be in effect for a period of 30 years, if granted, would authorize incidental take of the federally endangered golden-cheeked warbler (*Setophaga (=Dendroica) chrysoparia*) (covered species). The proposed incidental take would result from activities associated with otherwise lawful activities, including commercial and residential development on the 724-acre ranch in Bexar County, Texas, as a result of clearing of vegetation, earth-moving activities, and construction of structures (covered activities).

We make available the dEA for the Davis Ranch HCP and the associated HCP. In accordance with the requirements of the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*), we advise the public that:

1. We have gathered the information necessary to determine impacts and formulate alternatives for the dEA related to potential issuance of an ITP to the applicant; and
2. The applicant has developed a HCP as part of the application for an ITP, which describes the measures the applicant has agreed to take to minimize and mitigate the impacts of incidental take of the covered species to the maximum extent practicable pursuant to section 10(a)(1)(B) of the ESA.

The applicant has applied for an ITP that would be in effect for 30 years, if granted, and would authorize incidental take of the federally endangered golden-cheeked warbler. As described in the HCP, the proposed incidental take would result from activities associated

with otherwise lawful activities, including commercial and residential development on the 724-acre ranch in Bexar County, Texas, as a result of covered activities. The dEA considers the direct, indirect, and cumulative effects of implementation of the HCP, including the measures that will be implemented to minimize and mitigate, to the maximum extent practicable, the impacts of the incidental take of the covered species.

Proposed Action

The proposed action involves the issuance of an ITP by the Service for the covered activities in the permit area, pursuant to section 10(a)(1)(B) of the Act. The ITP would cover incidental take of the covered species associated with construction of commercial and residential development within the permit area.

The requested term of the permit is 30 years. To meet the requirements of a section 10(a)(1)(B) ITP, the applicant has developed and proposes to implement its HCP. The HCP describes the conservation measures the applicant has agreed to undertake to minimize and mitigate, to the maximum extent practicable, the impacts of the incidental take of the covered species, and ensures that incidental take will not appreciably reduce the likelihood of the survival and recovery of the covered species in the wild.

At full implementation, the applicant would mitigate up to approximately 1,176 acres in an approved golden-cheeked warbler habitat conservation bank.

Alternatives

We are considering one alternative to the proposed action as part of this process:

No Action: No ITP would be issued. Under a No Action alternative, the Service would not issue the requested ITP, and the applicant would either not construct the development or would construct the development avoiding all impacts to the golden-cheeked warbler. Therefore, the applicant would not implement the conservation measures described in the HCP.

Public Availability of Comments

Written comments we receive become part of the public record associated with this action. Before including your address, phone number, email address, or other personal identifying information (PII) in your comment, you should be aware that your entire comment—including your PII—may be made publicly available at any time. While you can request in your comment

that we withhold your PII from public review, we cannot guarantee that we will be able to do so. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

Authority

We provide this notice under section 10(c) of the ESA (16 U.S.C. 1531 *et seq.*), its implementing regulations (50 CFR 17.22), and the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and its implementing regulations (40 CFR 1506.6).

Dated: March 5, 2019.

Amy Lueders,

Regional Director, Southwest Region.

[FR Doc. 2019-05039 Filed 3-15-19; 8:45 am]

BILLING CODE 4333-15-P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[190A2100DD/AAK001030/
A0A501010.999900 253G]

Draft Environmental Impact Statement for the Little River Band Trust Acquisition and Casino Project, Township of Fruitport, Muskegon County, Michigan

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Reopening of public comment period.

SUMMARY: The Bureau of Indian Affairs (BIA) is reopening the public comment period for the Draft Environmental Impact Statement for the Little River Band Trust Acquisition and Casino Project, Township of Fruitport, Muskegon County, Michigan (DEIS).

DATES: BIA will consider all comments submitted or postmarked by April 17, 2019. Comments submitted to BIA concerning the DEIS prior to this announcement do not need to be resubmitted.

ADDRESSES: You may mail or hand-deliver written comments to Mr. Timothy LaPointe, Acting Midwest Regional Director, Bureau of Indian Affairs, Midwest Region, Norman Pointe II Building, 5600 West American Boulevard, Suite 500, Bloomington, MN 55347. Please include your name, return address, and the caption: "DEIS Comments, Little River Band Trust Acquisition and Casino Project," on the first page of your written comments.

FOR FURTHER INFORMATION CONTACT: Mr. Scott Doig, Regional Environmental Scientist, Division of Environmental Facilities, Safety and Cultural Resource Management (DEFSCRM), Bureau of Indian Affairs, Midwest Region, Norman Pointe II Building, 5600 West American Boulevard, Suite 500, Bloomington, MN 55347; phone: (612) 725-4597; email: scott.doig@bia.gov. Information is also available online at www.littleriverEIS.com.

SUPPLEMENTARY INFORMATION: BIA published a notice of availability of the DEIS on November 21, 2018. See 83 FR 58783. Public review of the DEIS is part of the administrative process for the evaluation of the Tribe's application to the BIA for the Federal trust acquisition of approximately 60 acres in the Township of Fruitport, Muskegon County, Michigan, upon which the Tribe proposes to develop a casino, hotel, parking, and other supporting facilities. The BIA held a public meeting on the DEIS on December 12, 2018 at Fruitport Middle School, 3113 E Pontaluna Road, Fruitport, Michigan 49415.

Background: The Proposed Project consists of the following components: (1) The transfer of an approximately 60-acre property from fee to trust status; (2) issuance of a Secretarial Determination by the Secretary of the Interior (Secretary) under Section 20 of the Indian Gaming Regulatory Act (IGRA) that gaming on the project site would be in the best interest of the Tribe and not detrimental to the surrounding community (25 U.S.C. 2719(b)(1)(A)); and (3) development of the trust parcel and adjacent land owned by the Tribe, totaling approximately 86.5 acres, with a variety of uses including a casino, hotel, conference center, parking, and other supporting facilities. At full build-out, the proposed casino facility would include approximately 149,069 square feet of gaming floor; a hotel with 220 guest rooms; a 250-seat buffet, as well as a café, sports bar, food court, and other food and beverage providers; and an approximately 38,790-square foot convention center. Access to the project site would be provided via two driveways: One along Harvey Street and one along East Ellis Road. Five service driveways, not for public use, would be located on East Ellis Road.

The following alternatives are considered in the DEIS: (1) Proposed Project; (2) Reduced Intensity Alternative; (3) Non-Gaming Alternative; (4) Custer Site Alternative, and (5) No Action/No Development. Environmental issues addressed in the DEIS include geology and soils, water

resources, air quality, biological resources, cultural and paleontological resources, socioeconomic conditions (including environmental justice), transportation and circulation, land use, public services, noise, hazardous materials, aesthetics, cumulative effects, and indirect and growth-inducing effects.

Locations where the DEIS is available for review: The DEIS will be available for review at the Fruitport Public Library located at 605 Eclipse Blvd., Fruitport, Michigan 53511, and online at www.littleriverEIS.com. To obtain a compact disk copy of the DEIS, please provide your name and address in writing to Mr. Scott Doig, Bureau of Indian Affairs, Midwest Regional Office. Contact information is listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice. Individual paper copies of the DEIS will be provided only upon payment of applicable printing expenses by the requestor for the number of copies requested.

Public comment availability: Comments, including names and addresses of respondents, will be available for public review at the BIA address shown in the **ADDRESSES** section, during regular business hours, 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. 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 in your comment that your personal identifying information be withheld from public review, the BIA cannot guarantee that this will occur.

Authority: This notice is published pursuant to Sec. 1503.1 of the Council of Environmental Quality Regulations (40 CFR parts 1500 through 1508) and Sec. 46.305 of the Department of the Interior Regulations (43 CFR part 46), implementing the procedural requirements of the NEPA of 1969, as amended (42 U.S.C. 4371, *et seq.*), and is in the exercise of authority delegated to the Assistant Secretary—Indian Affairs by 209 DM 8.

Dated: March 8, 2019.

Tara Sweeney,

Assistant Secretary—Indian Affairs.

[FR Doc. 2019-05032 Filed 3-15-19; 8:45 am]

BILLING CODE 4337-15-P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS-WASO-NAGPRA-NPS0027333; PPWOCRADNO-PCU00RP14.R50000]

Notice of Inventory Completion: Sam Noble Oklahoma Museum of Natural History, Norman, OK

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Sam Noble Oklahoma Museum of Natural History at the University of Oklahoma has completed an inventory of human remains and associated funerary objects, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the human remains and associated funerary objects and present-day Indian Tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to the Sam Noble Oklahoma Museum of Natural History. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to the Sam Noble Oklahoma Museum of Natural History at the address in this notice by April 17, 2019.

ADDRESSES: Dr. Marc Levine, Assistant Curator of Archaeology, Sam Noble Oklahoma Museum of Natural History, University of Oklahoma, 2401 Chautauqua Avenue, Norman, OK 73072-7029, telephone (405) 325-1994, email mlevine@ou.edu.

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the Sam Noble Oklahoma Museum of Natural History, Norman, OK. The human remains and associated funerary objects were removed from Johnston County, OK.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the Sam Noble Oklahoma Museum of Natural History professional staff in consultation with representatives of the Wichita and Affiliated Tribes (Wichita, Keechi, Waco & Tawakonie), Oklahoma.

History and Description of the Remains

In 1980, human remains representing, at minimum, three individuals were removed from the Converse 2 site (34N28) in Johnston County, OK. The site was excavated by the Oklahoma Anthropological Society at various times between 1978 and 1980, and was subsequently turned over to the Museum. The human remains consist of a fragmentary skeleton of one infant, 3–6 months old; one complete skeleton of an adult female, 35–50 years old; and one partial skeleton of an infant, 6 months to 1 year old. No known individuals were identified. The 1,234 associated funerary objects are one chipped stone biface fragment, 11 chipped stone cobble fragments, 556 chipped stone flakes, two chipped stone projectile point fragments, one large chipped stone projectile point, three pottery sherds, 51 shell fragments, six bird bone beads, 72 burned faunal bone fragments, 487 unmodified faunal bone fragments, and 44 charcoal and burned nutshell fragments.

The Converse 2 site is Plains Woodland in age (300 B.C.–A.D. 1000). Diagnostic cultural materials, oral history, and post-contact European records support the determination that the area was historically occupied by the Wichita and Affiliated Tribes (Wichita, Keechi, Waco & Tawakonie), Oklahoma.

Determinations Made by the Sam Noble Oklahoma Museum of Natural History

Officials of the Sam Noble Oklahoma Museum of Natural History have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of three individuals of Native American ancestry.

- Pursuant to 25 U.S.C. 3001(3)(A), the 1,234 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.

- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Wichita and Affiliated Tribes (Wichita, Keechi, Waco & Tawakonie), Oklahoma.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Dr. Marc Levine, Assistant Curator of Archaeology, Sam Noble Oklahoma Museum of Natural History, University of Oklahoma, 2401 Chautauqua Avenue, Norman, OK 73072–7029, telephone (405) 325–1994, email mlevine@ou.edu, by April 17, 2019. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to the Wichita and Affiliated Tribes (Wichita, Keechi, Waco & Tawakonie), Oklahoma may proceed.

The Sam Noble Oklahoma Museum of Natural History is responsible for notifying the Wichita and Affiliated Tribes (Wichita, Keechi, Waco & Tawakonie), Oklahoma that this notice has been published.

Dated: February 12, 2019.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2019–04917 Filed 3–15–19; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA– NPS0027118;
PPWOCRADNO–PCU00RP14.R50000]

Notice of Inventory Completion: Office of the State Archaeologist Bioarchaeology Program, University of Iowa, Iowa City, IA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Office of the State Archaeologist Bioarchaeology Program, previously listed as the Office of the State Archaeologist Burials Program, has

completed an inventory of human remains and associated funerary objects, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is no cultural affiliation between the human remains and associated funerary objects and any present-day Indian Tribes or Native Hawaiian organizations. Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to the Office of the State Archaeologist Bioarchaeology Program. If no additional requestors come forward, the human remains and associated funerary objects may be reinterred.

DATES: Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to the Office of the State Archaeologist Bioarchaeology Program at the address in this notice by April 17, 2019.

ADDRESSES: Dr. Lara Noldner, Office of the State Archaeologist Bioarchaeology Program, University of Iowa, 700 South Clinton Street, Iowa City, IA 52242, telephone (319) 384–0740, email lara-noldner@uiowa.edu.

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the Office of the State Archaeologist Bioarchaeology Program, Iowa City, IA. The human remains and associated funerary objects were removed from multiple counties and additional unknown locations in the State of Iowa.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3) and 43 CFR 10.11(d). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the Office of the State Archaeologist Bioarchaeology

Program professional staff in consultation with representatives of the Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota; Citizen Potawatomi Nation, Oklahoma; Flandreau Santee Sioux Tribe of South Dakota; Ho-Chunk Nation of Wisconsin; Iowa Tribe of Kansas and Nebraska; Iowa Tribe of Oklahoma; Lower Sioux Indian Community in the State of Minnesota; Miami Tribe of Oklahoma; Omaha Tribe of Nebraska; Otoe-Missouria Tribe of Indians, Oklahoma; Pawnee Nation of Oklahoma; Peoria Tribe of Indians of Oklahoma; Ponca Tribe of Indians of Oklahoma; Ponca Tribe of Nebraska; Prairie Band Potawatomi Nation (previously listed as the Prairie Band of Potawatomi Nation, Kansas); Sac & Fox Nation of Missouri in Kansas and Nebraska; Sac & Fox Nation, Oklahoma; Sac & Fox Tribe of the Mississippi in Iowa; Santee Sioux Nation, Nebraska; Sisseton-Wahpeton Oyate of the Lake Traverse Reservation, South Dakota; Spirit Lake Tribe, North Dakota; The Osage Nation (previously listed as the Osage Tribe); Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota; Upper Sioux Community, Minnesota; Winnebago Tribe of Nebraska; and Yankton Sioux Tribe of South Dakota (hereafter referred to as "The Tribes").

History and Description of the Remains

At an unknown date, human remains representing, at minimum, two individuals were removed from an unknown location in the State of Iowa by a local avocational archeologist and transferred to the Office of the State Archaeologist Bioarchaeology Program (OSA-BP) in 2016. The human remains represent two adults of indeterminate sex (BP 3183). No known individuals were identified. No associated funerary objects are present.

At an unknown date, human remains representing, at minimum, 14 individuals were removed from an unknown location in the State of Iowa. The human remains were transferred to the OSA-BP from the Nestor Stiles collection at the Sanford Museum in Cherokee, IA, in 1993. No other provenience information is available, with the exception of a tag indicating an element had come from a "Mound on Spirit Lake" in Iowa. The human remains represent six adult males; three adult females; three adults of indeterminate sex; one adolescent 13–18 years old; and one child three to four years old (BP 656). No known individuals were identified. No associated funerary objects are present.

At an unknown date, human remains representing, at minimum, two individuals were removed from an unknown location in the State of Iowa. In 1995, the human remains were transferred to the OSA-BP from the H. P. Field collection (catalogue no. 100.99.HF.01.16) at Luther College in Decorah, IA. No other provenience information is available. The human remains represent one adult of indeterminate age and sex and one subadult four to seven years old (BP 898). No known individuals were identified. No associated funerary objects are present.

At an unknown date, human remains representing, at minimum, two individuals were removed from unknown locations in the State of Iowa by an amateur archeologist, and were included in a large donation of archeological material to Luther College in Decorah, IA. In 1995, the human remains were transferred to the OSA-BP. The human remains consist of an occipital bone and a nearly complete mandible representing one subadult approximately 8 to 12 years old (BP 922), and one individual approximately 18–21 years old of indeterminate sex (BP 896). No known individuals were identified. No associated funerary objects are present.

At an unknown date, human remains representing, at minimum, two individuals were removed from an unknown location by a private individual, and were transferred to the OSA-BP in 2014. The remains were reportedly collected in eastern Iowa, but no exact provenience information is available. The human remains represent one female of indeterminate age (BP 3031) and one individual of indeterminate age and sex. No known individuals were identified. No associated funerary objects are present.

At an unknown date, human remains representing, at minimum, three individuals were removed from an unknown location in the State of Iowa. In 2010, the human remains were transferred to the OSA-BP after their discovery in the H. P. Field collection in the Luther College Anthropology Laboratory, Decorah, IA. No other provenience information is available. The human remains represent one adult of indeterminate age and sex, one adult male of indeterminate age, and one juvenile approximately 11–15 years old (BP 2547). No known individuals were identified. No associated funerary objects are present.

At an unknown date, human remains representing, at minimum, two individuals were removed from an unknown location in the State of Iowa.

The human remains were transferred from a private collection to the Sanford Museum in Cherokee, IA, and then transferred to the OSA-BP. The human remains represent two young adults of indeterminate sex (BP 2783). No known individuals were identified. No associated funerary objects are present.

At an unknown date, human remains representing, at minimum, one individual were removed from site 13AM5 in Allamakee County, IA, by Gavin Sampson, an avocational archeologist. Mr. Sampson collected artifacts primarily in Winneshiek and Allamakee counties from the 1940s through the 1960s, and donated his collection to Luther College, Decorah, IA, in 1969. The human remains were transferred to the OSA-BP in 1995. Site 13AM5 is a Woodland and Oneota period site. The human remains consist of two human teeth representing one older juvenile/young adult of indeterminate sex (BP 920). No known individual was identified. No associated funerary objects are present.

In 2013, human remains representing, at minimum, one individual were removed from a sandbar along the Raccoon River in Calhoun County, IA, by the Calhoun County Assistant County Engineer, who turned them over to the Calhoun County Sheriff. The human remains were transferred to the Iowa State Medical Examiner's Office and then to the OSA-BP in 2013. The human remains consist of a partial cranium representing one adult of indeterminate sex (BP 2933). No known individual was identified. No associated funerary objects are present.

At an unknown date, human remains representing, at minimum, one individual were removed from site 13CH5 in Calhoun County, IA. In 2009, an archeologist in the Office of the State Archaeologist (OSA) discovered the remains while examining the Russ Campbell archeological collection. This collection was housed at the Humboldt County Historical Association's Mill Farm Historical Museum in Dakota City, IA, and then transferred to the OSA-BP in 2009. Site 13CH5 is a multicomponent site suggesting a Paleoindian to Late Prehistoric affiliation. The human remains consist of a cranial fragment representing one adult of indeterminate age and sex (BP 2411). No known individual was identified. No associated funerary objects are present.

In 2014, human remains representing, at minimum, one individual were removed from a sandbar along the Little Sioux River in Cherokee County, IA, by the Cherokee County Sheriff's Office, and sent to the Iowa State Medical

Examiner's Office, which determined they were not of recent date. The human remains were transferred to the OSA-BP in 2014. The human remains consist of a partial human cranium representing one adult male (BP 2979). No known individual was identified. No associated funerary objects are present.

In 2011, human remains representing, at minimum, one individual were removed from a sandbar near the juncture of Mill Creek and the Little Sioux River in Cherokee County, IA, by unknown individuals. The human remains were given to the Cherokee County Sheriff's Office, then to the Department of Criminal Investigation, and then to the State Medical Examiner's Office, before being transferred to the OSA-BP. The human remains consist of a partial cranium representing one adult male (BP 2670). No known individual was identified. No associated funerary objects are present.

In April of 2015, human remains representing, at minimum, one individual were removed from a sandbar near the juncture of Mill Creek and Grace Creek in Cherokee County, IA, by unknown individuals. Initially the remains were given to the Sanford Museum in Cherokee, IA, and then they were transferred to the OSA-BP. The human remains consist of a partial human mandible representing one middle-aged adult male (BP 3121). No known individual was identified. No associated funerary objects are present.

In 1974, human remains representing, at minimum, three individuals were removed from site 13CN9 in Clinton County, IA, by a bulldozer operator working on the Flood Control Project at Eagle Point Park. The human remains remained in the possession of an avocational archeologist until they were transferred to the OSA-BP in June of 2015. Artifacts recovered from site 13CN9 suggest a Woodland period affiliation. The human remains represent individuals of indeterminate sex, including two adults and a young adolescent to young adult (BP 3137). No known individuals were identified. No associated funerary objects are present.

In 1954, human remains representing, at minimum, 10 individuals were removed from site 13CN162 in Clinton County, IA, by an avocational archeologist. Some of these remains were transferred to the OSA-BP in 2001, and the remainder were transferred in 2015. The human remains represent eight adults, one young juvenile, and one newborn (BP 1497, 3136), all of indeterminate sex. No known individuals were identified. The 11 associated funerary objects include 3

chert flakes, 6 pieces of chert debitage, 1 chert drill, and 1 pot sherds.

Between 1991 and 1992, human remains representing, at minimum, one individual were removed from site 13DB62 in Dubuque County, IA, by OSA personnel during excavations for the Iowa Department of Natural Resources at the Mines of Spain Recreational Area. The human remains consist of a parietal fragment and a femur fragment representing an older juvenile or young adult of indeterminate age and sex (BP 599). No known individual was identified. No associated funerary objects are present.

In 1970, human remains representing, at minimum, one individual were removed from site 13DB346 in Dubuque County, IA, by John Reese of the University of Dubuque. In 2010, the human remains were found in the Paleontology Repository at the University of Iowa and transferred to the OSA-BP. No other provenience information is available. The human remains consist of human cranial material representing an adult of indeterminate age and sex (BP 2436). No known individual was identified. No associated funerary objects are present.

In 2014, human remains representing, at minimum, one individual were removed from site 13DB1010 in Dubuque County, IA, by personnel of Wapsi Valley Archaeology, Inc. of Anamosa, IA, during archeological testing. The human remains were transferred to the OSA-BP in July 2014. Artifacts recovered from site 13DB1010, a rockshelter, suggest a possible Middle or Late Woodland affiliation. The human remains consist of one cranial fragment representing an adult of indeterminate age and sex (BP 3057). No known individual was identified. No associated funerary objects are present.

At an unknown date, human remains representing, at minimum, one individual were removed from site 13DK23 in Dickinson County, IA. At an unknown date, the human remains were donated to the Sanford Museum in Cherokee, IA, by a local collector who recorded 13DK23 in 1975 after reporting that the site had been exposed during road construction activities. The remains were then transferred to the OSA-BP in 2014. Site 13DK23 is a Woodland period camp site. The human remains consist of four cranial fragments representing an adult individual of indeterminate age and sex (BP 3059). No known individual was identified. No associated funerary objects are present.

At an unknown date human remains representing, at minimum, one individual were removed from an

unknown site in Des Moines County, IA. In 2011, an archeologist from the OSA reported observing possible human skeletal remains in a display case at the Dr. H. M. Patterson Museum, Mediapolis Library in Mediapolis, IA. The human remains were transferred from the Mediapolis Library to the OSA-BP in the same year. A label associated with the human remains indicates they originated from a "prehistoric mound" in Huron Township, IA, and were removed in the late 19th to early 20th century. No other provenience information is available. The human remains represent an adult male approximately 24–29 years old (BP 2685). No known individual was identified. No associated funerary objects are present.

At an unknown date, human remains representing, at minimum, one individual were removed from an unknown site in Humboldt County, IA. The human remains were found in the collection of archeologist Amy Harvey, and were stored at Stephens College in Columbia, MO. The collection was transferred to the OSA-BP in 2010 and 2013. The label associated with the human remains indicates they were removed from Humboldt County, IA. No other provenience information is available. The human remains represent an older adult of indeterminate sex (BP 2956). No known individual was identified. No associated funerary objects are present.

In 2001, human remains representing, at minimum, one individual were removed from an unknown site at Lake Macbride in Johnson County, IA, and were transferred to the OSA-BP. The human remains represent an adult of indeterminate age and sex (BP 1478). No known individual was identified. No associated funerary objects are present.

In 1969, human remains representing, at minimum, eight individuals were removed from the Blosser Site (13BN125) in Boone County, IA. The remains were recovered during test excavations conducted by the Iowa State University Archaeological Laboratory (ISUAL) at the Saylorville Reservoir. The human remains were transferred to the OSA-BP in 1991. Eight adults, including three possible females and one possible male, are represented by the remains (BP 524). No known individuals were identified. The 6 associated funerary objects are 4 bison scapula fragments, 1 celt, and 1 incomplete ceramic vessel.

Between 1932 and 1936, human remains representing, at minimum, one individual were removed from the Levsen Rockshelter site (13JK4) in Jackson County, IA. The site was

excavated by a local avocational archeologist who amassed a large collection of archeological materials in the mid-1930s. The human remains were discovered in the collections of Maquoketa Caves State Park in Maquoketa, IA, and were transferred to the OSA-BP in 2009. Site 13JK4 is a multicomponent site occupied from the late Early Woodland through the Late Woodland periods. The human remains consist of a human hand phalanx representing an adult of indeterminate age and sex (BP 3013). No known individual was identified. No associated funerary objects are present.

Between 1968 and 1969, human remains representing, at minimum, one individual were removed from site 13JK20 in Jackson County, IA, by Manfred Jaehnig from the University of Wisconsin-Madison. The human remains were transferred to the OSA-BP at some time between 2010 and 2014. Subsequent Carbon-14 dating of charcoal remnants in the burial suggests that the human remains date to the Late Woodland period. The human remains represent a subadult approximately 1.5 to 3.5 years old (BP 2673, 3033). No known individual was identified. The 2 associated funerary objects are 1 freshwater clam shell and 1 lot of 108.5 grams of soil containing charcoal.

Between 1968 and 1969, human remains representing, at minimum, three individuals were removed from site 13JK21 in Jackson County, IA, by Manfred Jaehnig from the University of Wisconsin-Madison. The human remains were transferred to the OSA-BP at some time between 2010 and 2014. Based on archeological evidence, the remains likely date to the Woodland period. The human remains represent individuals of indeterminate sex, including an older adult of indeterminate age; a subadult approximately 5–10 years old; and a subadult less than two years old (BP 2674). No known individuals were identified. No associated funerary objects are present.

In 1975, human remains representing, at minimum, two individuals were removed from site 13JK23 in Jackson County, IA, by University of Iowa students and members of the Iowa Archaeological Society under the supervision of State Archaeologist Duane C. Anderson. In 2014, human remains from the excavation were found in the OSA Repository, and were transferred to the OSA-BP. Based on archeological evidence, the remains likely date to the Woodland period. The human remains consist of cranial fragments representing a child approximately 5 to 8 years old of

indeterminate sex, and an adult of indeterminate age and sex (BP 3034). No known individuals were identified. No associated funerary objects are present.

In 1926, human remains representing, at minimum, two individuals were removed from site 13JK66 in Jackson County, IA, by Paul H. Nesbitt. In 1926, Alonzo Pond, assistant curator of the Logan Museum at Beloit College in Wisconsin, and Mr. Nesbitt, a recent graduate of Beloit College, investigated several caves in the vicinity of Maquoketa, IA. Mr. Nesbitt spent 10 weeks excavating site 13JK66, where he encountered human skeletal remains. In 2014, during examination of the faunal remains from the site, three human bone fragments and one complete human bone were found by an OSA faunal analyst. These human remains were then deaccessioned from the Logan Museum's collection and transferred to the OSA-BP. Based on archeological evidence, the human remains likely date from the Middle Archaic to Oneota periods, and represent a middle-aged/older adult of indeterminate sex and a later-term fetus/newborn (BP 3016) of indeterminate sex. No known individuals were identified. No associated funerary objects are present.

At an unknown date, human remains representing, at minimum, one individual were removed from site 13JK80 in Jackson County, IA. Based on archeological evidence, the remains likely date to the Late Woodland period and represent a middle-aged/older adult female (BP 171). No known individual was identified. No associated funerary objects are present.

In 2013, human remains representing, at minimum, two individuals were removed from site 13JN12 in Jones County, IA, during a survey by an archeologist from the OSA. The human remains were transferred to the OSA-BP in 2013. Based on archeological evidence, the human remains likely date to the Late Woodland period and consist of a human vertebra representing a subadult approximately 8–10 years old of indeterminate sex, and a right tarsal bone representing an individual of indeterminate age and sex (BP 2835). No known individuals were identified. No associated funerary objects are present.

In 2013, human remains representing, at minimum, one individual were removed from a location along the South Skunk River in Jasper County, IA, by the Jasper County Sheriff's Office, and were sent to the Iowa State Medical Examiner's Office. These human remains were transferred to the OSA-BP in 2013. The human remains consist of a partial cranium representing an adult, 30–50 years old, of indeterminate sex

(BP 2928). No known individual was identified. No associated funerary objects are present.

In 2011, human remains representing, at minimum, three individuals were removed from site 13LA139 in Louisa County, IA, by unknown individuals. The area was inspected by investigators from the State Medical Examiner's Office, local law enforcement officers, and OSA-BP Director Shirley Schermer. Upon further investigation, two additional burials were discovered by OSA-BP personnel. As the remains were not of medico-legal significance, they were transferred to the OSA-BP in 2011. Site 13LA139 is a documented Late Woodland and Oneota habitation site. The human remains represent a subadult approximately 4.5 to 4.8 years old of indeterminate sex, and two adults of indeterminate sex and age (BP 2600). No known individuals were identified. The 9 associated funerary objects include 2 pieces of chert debitage and 6 potsherds, and 1 lot of charcoal.

At an unknown date, human remains representing, at minimum, one individual were removed from an unknown location in Lee County, IA. The human remains were transferred from the Caleb F. Davis collection at the Iowa State Historical Museum to the OSA-BP in 1989. The human remains consist of three human teeth (BP 329) representing a middle-aged adult of indeterminate sex. No known individual was identified. No associated funerary objects are present.

In 1999, human remains representing, at minimum, one individual were removed from site 13MC336 in Muscatine County, IA, during excavation for a home. The Iowa State Medical Examiner's Office contacted forensic anthropologist Dr. Dawnie Steadman of Iowa State University who, with the assistance of personnel from the OSA-BP, examined the burial site. The human remains were ultimately removed, as they had been heavily disturbed by the excavation. Dr. Steadman performed an initial examination of the remains, after which they were transferred to the OSA-BP (in 1999). No artifacts diagnostic of time period or cultural affiliation were encountered during excavation. The human remains represent a child approximately eight years old (BP 1295) of unknown sex. No known individual was identified. No associated funerary objects are present.

In 2008, human remains representing, at minimum, one individual were removed from site 13ML690 in Mills County, IA, by a Mills County Conservation Board naturalist. The human remains were then transferred to

the OSA-BP. No other provenience information is available. The human remains are possibly prehistoric, and consist of a partial mandible representing an adult of indeterminate age and sex (BP 2233). No known individual was identified. No associated funerary objects are present.

In March 2015, human remains representing, at minimum, one individual were removed from a sandbar along the Nishnabotna River in Page County, IA, by a private individual and taken into custody by the Page County Sheriff's Office. The human remains were initially transferred to the Iowa State Medical Examiner's Office in Des Moines, IA, and then transferred to the OSA-BP in April 2015. The human remains consist of a partial cranium representing an adult male approximately 35–60 years of age (BP 3113). No known individual was identified. No associated funerary objects are present.

In April 2015, human remains representing, at minimum, one individual were removed from a sandbar along the Indian River in Polk County, IA, by a private individual and taken into custody by the Polk County Sheriff's Office. The human remains were initially transferred to the Iowa State Medical Examiner's Office, who consulted with the OSA-BP on the antiquity of the remains. As the human remains were not of medico-legal significance, they were transferred to the OSA-BP in May 2015. The human remains consist of a partial cranium representing a middle-aged adult male (BP 3119). No known individual was identified. No associated funerary objects are present.

At an unknown date, human remains representing, at minimum, one individual were removed from site 13PK38, in Polk County, IA, by a private individual. Site 13PK38 is a burial site associated with the Great Oasis culture. The human remains consist of a mandible representing an adult of indeterminate sex approximately 30–45 years of age (BP 2754). No known individual was identified. No associated funerary objects are present.

In 2011, human remains representing, at minimum, two individuals were removed from site 13PK96, in Polk County, IA, by the University of Iowa OSA personnel. Following consultation with the OSA Indian Advisory Council, the human remains were removed from the site and transferred to the OSA-BP. Site 13PK96 is a Middle Archaic site. The human remains represent an adult female of indeterminate age; and an infant approximately 3–9 months old (BP 2604). No known individuals were

identified. The 3 associated funerary objects are 1 Raddatz projectile point; 1 polished stone; and 1 lot of red ochre.

In 1969, human remains representing, at minimum, two individuals were removed from site 13PM25 in Plymouth County, IA, by University of Nebraska personnel under the direction of Dale Henning. During an examination of archeological material from the site by students from the University of Wisconsin-Madison, human remains were identified and were returned to the University of Nebraska in the early 1970s. In 2015, during further analysis of archaeological material by Henning, additional human remains were discovered in the collection. All the human remains were transferred to the OSA-BP in September 2015. Site 13PK38 is associated with the Great Oasis culture. The human remains represent an adult of indeterminate age and sex, and an adolescent of less than 16 years old (BP 3153). No known individuals were identified. No associated funerary objects are present.

In 1966, human remains representing, at minimum, six individuals were removed from site 13PM32 in Plymouth County, IA by an avocational archeologist. Some of the excavated human remains were sent to the University of Wisconsin-Madison, and were then transferred to the OSA-BP for analysis in 2011. Site 13PM32 is associated with the Woodland and Great Oasis cultures. The human remains represent two adult males, two adult females, one subadult 5–7 years old, and one subadult 8–10 years old (BP 2672). No known individuals were identified. No associated funerary objects are present.

At an unknown date, human remains representing, at minimum, three individuals were removed from site 13PM50 in Plymouth County, IA. The human remains were transferred from the Sanford Museum, Cherokee, IA, to the OSA-BP in 2007 and 2014. Site 13PM50 is a multicomponent Woodland site and Great Oasis village. The human remains represent a young adult of indeterminate sex; an individual between 6 and 21 years old of indeterminate sex; and an infant approximately three months old (BP 3061). No known individuals were identified. No associated funerary objects are present.

In 2010, human remains representing, at minimum, one individual were removed from site 13PM264 in Plymouth County, IA, during construction at a private residence. The Iowa State Medical Examiner's Office contacted a forensic anthropologist, who examined the exposed burial and

determined that the human remains were ancient Native American. Consultation among the OSA-BP Director Shirley Schermer, several Indian Tribes, and members of the OSA Indian Advisory Council resulted in consensus that the burial be removed. Schermer removed the human remains and transferred them to the OSA-BP. No artifacts diagnostic of time period or cultural affiliation were encountered. The human remains represent an adult male, approximately 20–35 years old (BP 2542). No known individual was identified. No associated funerary objects are present.

In 1956, human remains representing, at minimum, five individuals were removed from an unknown location in Pottawattamie County, IA, by a private individual. In 2010, the human remains were transferred to the OSA-BP. The fragmentary human remains represent one adult of indeterminate age and sex; one juvenile 13–19 years old; one subadult 9–13 years old; one subadult 6–8 years old; and one subadult 2.5–4.5 years old (BP 2433). No known individuals were identified. No associated funerary objects are present.

In 2012, human remains representing, at minimum, one individual were removed from the Nishnabotna River, south of the city of Macedonia, in Pottawattamie County, IA. In September of 2012, after determining the remains were not recent, the Iowa State Medical Examiner's Office transferred the human remains to the OSA-BP. The human remains consist of a mandible representing a middle-aged adult of indeterminate sex (BP 2817). No known individual was identified. No associated funerary objects are present.

At an unknown date, human remains representing, at minimum, one individual were removed from an unknown location in Pottawattamie County, IA. In 1999, the human remains were found in the basement of a Council Bluffs, IA, residence. The human remains were retrieved by the Pottawattamie County Sheriff's Department criminalist, who transferred them to forensic anthropologist Dr. Dawnie Steadman, then at Iowa State University. After determining the remains were prehistoric, Dr. Steadman transferred the remains to the OSA-BP. The human remains consist of a cranium and mandible representing a middle-aged adult male (BP 1342). No known individual was identified. No associated funerary objects are present.

In 2009, human remains representing, at minimum, one individual were removed from the south slope of site 13PW43 in Pottawattamie County, IA, by an OSA-BP archeologist. In 1924,

Charles R. Keyes dated site 13PW43 to both the prehistoric and historic periods and identified Native American burials there. The human remains consist of a bone fragment representing one individual of indeterminate age and sex (BP 2418). No known individual was identified. No associated funerary objects are present.

In 2001, human remains representing, at minimum, two individuals were removed from site 13PW176 in Pottawattamie County, IA, during construction of a retaining wall. The incident was reported to the Pottawattamie County Sheriff's Office and treated as a forensic case. The human remains underwent forensic analysis by Dr. Dawnie Steadman then at the State University of New York. As the results of C¹⁴ analysis indicated that a femur dated to approximately A.D. 1190, and a tibia dated to approximately A.D. 184, the possibility that the remains were of medico-legal significance could be excluded. In 2002, the human remains were transferred to the University of Iowa OSA-BP. The human remains represent a juvenile of indeterminate sex, 14–20 years old; and a slightly older juvenile/young adult of indeterminate sex (BP 1570). No known individuals were identified. No associated funerary objects are present.

In 2013, human remains representing, at minimum, one individual were removed from a sandbar along the Skunk River in the city of Ames in Story County, IA. The human remains were transferred to the Story County Sheriff and then to the Iowa State Medical Examiner's Office. The Medical Examiner determined that the human remains were ancient, and transferred them to the OSA-BP in 2013. No other provenience information is available. The human remains consist of a partial cranium representing an adult female approximately 30–40 years old (BP 2912). No known individual was identified. No associated funerary objects are present.

In 2014, human remains representing, at minimum, one individual were removed from the Big Sioux Wildlife Area in Sioux County, IA, by a private individual. The human remains were sent to the Iowa State Medical Examiner's Office (case #14SME544). The human remains, which had been found near a Native American burial site (13SX12) of unknown cultural affiliation, were determined to be prehistoric and were transferred to the OSA-BP in 2014. The human remains consist of a partial mandible representing an adult of indeterminate age and sex (BP 3072). No known

individual was identified. No associated funerary objects are present.

At an unknown date, human remains representing, at minimum, three individuals were removed from an unknown location in Union County, IA. In 2013, museum staff at the Iowa State Historical Society located three boxes containing the human remains of several individuals. The human remains were catalogued between 1914 and 1935, but no other provenience information is available. The human remains were transferred to the OSA-BP in 2013, and represent two middle-aged adults of indeterminate sex; and a subadult approximately 9–9.5 years old (BP 2926). No known individuals were identified. No associated funerary objects are present.

At an unknown date, human remains representing, at minimum, one individual were removed from site 13WB215 in Webster County, IA. In 2009, the human remains were identified among archeological material belonging to the Russ Campbell Collection, which is housed at the Humboldt County Historical Association's Mill Farm Historical Museum in Dakota City, IA. The human remains were transferred to the OSA-BP in 2009. Site 13WB215 was occupied from the Middle Archaic to post-Woodland periods, and includes a cemetery associated with Middle and Late Woodland components. The human remains consist of a cranial fragment representing an adult of indeterminate age and sex (BP 2412). No known individual was identified. No associated funerary objects are present.

At an unknown date, human remains representing, at minimum, three individuals were removed from site 13WB357 in Webster County, IA, by a private individual. The human remains are reported to have been located in pit silo burials encountered by the individual's grandfather and great-grandfather in the 1930s. The pit silo burials may have been associated with site 13WB357, a conical mound of unknown cultural or temporal affiliation. The remains were transferred to the University of Iowa OSA-BP in 2008. No other provenience information is available. The human remains represent two adults of indeterminate age and sex, and one subadult of indeterminate age and sex (BP 2297). No known individuals were identified. No associated funerary objects are present.

In 2013, human remains representing, at minimum, one individual were removed from a sandbar along the Little Sioux River in Woodbury County, IA, by a private individual. The human remains were taken to a professional

archeologist, who identified the remains as human. Contact was also made with OSA-BP Director Shirley Schermer, and the remains were transferred to the OSA-BP in 2013. No other provenience information is available. The human remains consist of a cranium representing a young to middle-aged adult of indeterminate sex (BP 2960). No known individual was identified. No associated funerary objects are present.

At an unknown date, human remains representing, at minimum, two individuals were removed from an unknown location in Woodbury County, IA, by an unknown individual. In October 2009, human remains from this unknown location were identified in the collections of the Sanford Museum in Cherokee, IA, and were transferred to the OSA-BP. No other provenience information is available. The human remains consist of one cranial element (BP 3036), a vertebra, and a rib (BP 3037). They represent a middle-aged/older adult of indeterminate sex (BP 3036), and an adult of indeterminate age and sex (BP 3037). No known individuals were identified. No associated funerary objects are present.

At an unknown date, human remains representing, at minimum, five individuals were removed from an unknown location in northern Winnebago County, IA. In 2015, the human remains were transferred to the OSA-BP by a private individual. The human remains represent one young/middle-aged adult male; two middle-aged to older adults of indeterminate sex; one possibly older adult of indeterminate sex and age; and one subadult approximately 2.5–3.5 years old (BP 3154). No known individuals were identified. No associated funerary objects are present.

At an unknown date, human remains representing, at minimum, one individual were removed from an unknown location north of the town of Decorah in Winneshiek County, IA. The human remains, which had been disturbed during road construction, were donated by the local police department to Decorah High School, possibly in the 1960s. In December 2015, the human remains were transferred to the OSA-BP and identified as Native American. The human remains represent a middle-aged/older adult male (BP 3165). No known individual was identified. No associated funerary objects are present.

In 1954 or 1955, human remains representing, at minimum, one individual were removed from site 13WH16 in Winneshiek County, IA, by an avocational archeologist whose collections are housed at the Luther

College Archaeological Laboratory in Decorah, IA. The human remains (2000.13WH16.1.1) were transferred to the OSA-BP in 2001. Site 13WH16 is determined to be a Woodland and Oneota site. The human remains consist of a tooth representing a subadult approximately 1–2.5 years old (BP 1476). No known individual was identified. No associated funerary objects are present.

In 1995, human remains representing, at minimum, two individuals were removed from site 13WH35 in Winneshiek County, IA, during archeological excavations. All the archeological materials were housed at the Luther College Archaeological Laboratory in Decorah, IA. In 2001, human remains were identified in the collection, and were transferred to the OSA-BP. Site 13WH35 is a Woodland and Oneota site. The human remains consist of two human teeth representing a juvenile/young adult of indeterminate sex and a middle-aged adult of indeterminate sex (BP 1477). No known individuals were identified. No associated funerary objects are present.

In 1995, human remains representing, at minimum, one individual were removed from site 13WH111 in Winneshiek County, IA, during archeological test excavations at the historic Winnebago school by OSA personnel, and were transferred to the OSA-BP. The Winnebago school was in use between 1840 and 1848. The human remains consist of a human tooth representing a subadult approximately 7.5–12.5 years old (BP 838). No known individual was identified. No associated funerary objects are present.

In 2012, human remains representing, at minimum, one individual were removed from site 13WH128 in Winneshiek County, IA, during archeological test excavations at the mound and were transferred to the OSA-BP. No artifacts diagnostic of time period or cultural affiliation were encountered. The human remains consist of a human tooth crown representing an individual between 12 and 21 years old of indeterminate sex (BP 2695). No known individual was identified. No associated funerary objects are present.

On July 11, 2016, human remains representing, at minimum, one individual were removed from site 13SA131, on a sandbar in the North Raccoon River, in Sac County, IA. The human remains were recovered by the Sac County Sheriff's Department, and were transferred to the Iowa Office of the State Medical Examiner on July 12, 2016. The Medical Examiner sent the remains to Michael Finnegan of

Forensic Anthropological Consultants in Manhattan, KS. Dr. Finnegan determined the remains were not of medico-legal significance and returned them to the Iowa State Medical Examiner after examination. The remains were then transferred to the OSA-BP on August 5, 2016. The human remains consist of a partial cranium representing a middle-aged/older Native American adult male (BP 3213). No known individual was identified. No associated funerary objects are present.

On July 16, 2016, human remains representing, at minimum, one individual were removed from site 13SH74, in the West Nishnabotna River, in Shelby County, IA. The remains were recovered by the Shelby County Sheriff's Department, and were transferred to the Iowa Office of the State Medical Examiner in Ankeny, IA. The Office of the State Medical Examiner transferred the remains to the OSA-BP in August 2016. The human remains consist of a complete cranium representing an older adult female (BP 3212). No known individual was identified. No associated funerary objects are present.

In 1955, human remains representing, at minimum, one individual were removed from the Turin Site (13MN2), a Middle Archaic burial site in Monona County, IA. The remains were recovered during excavations conducted by Reynold J. Ruppe and W.D. Frankforter following the exposure of four burials during gravel mining operations. The majority of the human remains recovered during these excavations were reburied in 1988 and 1993. In 2011, additional remains representing a single individual were discovered in the collection of the late Adrian Anderson. The remains were transferred to the OSA-BP in 2011. The human remains represent a subadult aged approximately six to seven years (BP 2708). No known individual was identified. No associated funerary objects are present.

In 2012 and 2014, human remains representing, at minimum, two individuals were removed from the Woodpecker Cave site (13JH202) in Johnson County, IA. The site, which has both Archaic and Woodland components, was excavated by the University of Iowa Department of Anthropology field school. Isolated human elements (teeth and phalanges) were identified during laboratory processing and were transferred to the OSA-BP. The human remains represent two adults of indeterminate age and sex (BP 2755, 3039). No known individuals were identified. No associated funerary objects are present.

In June 2016, human remains representing, at minimum, one individual were removed from site 13CA75 in Cass County, IA. The human remains were discovered by boaters after being exposed on a sandbar in the East Nishnabotna River near Cold Springs State Park. The human remains were transferred to the Montgomery County Sheriff's Office, then to the Cass County Sheriff's Office, who transferred them to the Iowa State Medical Examiner's Office. The State Medical Examiner determined that the human remains were greater than 150 years old and transferred them to OSA-BP. The human remains represent an adult of indeterminate age and sex (BP 3197). No known individuals were identified. No associated funerary objects are present.

In 1965, human remains representing, at minimum, two individuals were removed from the Charles D. Johnson Mound (13PK33) in Polk County, IA. A salvage excavation of the Middle Woodland mound was conducted by an archaeological team from Iowa State University in cooperation with the National Park Service, prior to the destruction of the site during the relocation of the Wabash Railroad. Human remains recovered from this excavation were stored at the Iowa State University Archaeological Laboratory (ISUAL), and were transferred to the OSA-BP in 1991. The human remains represent one adult and one subadult of indeterminate age and sex (BP 522). No known individuals were identified. The one associated funerary object is a ceramic vessel represented by 15 sherds.

Although some of the human remains were removed from archeological sites from which Archaic, Woodland, and Great Oasis components could be identified, none of these archeologically-defined traditions can be reasonably traced to any present-day Indian Tribes. Although the Oneota tradition can be affiliated with present-day Indian Tribes, and was present at sites from which human remains were removed, there were also other traditions/components present, thus, the human remains and artifacts could not be associated with the Oneota phases.

At the time of the excavation and removal of these human remains and associated funerary objects, the land from which the remains and objects were removed was not the tribal land of any Indian Tribe or Native Hawaiian organization. The Office of the State Archaeologist Bioarchaeology Program consulted with The Tribes who are recognized as aboriginal to the area from which these Native American human remains and associated funerary objects were removed. None of The Tribes

agreed to accept control of the human remains and associated funerary objects.

Pursuant to 43 CFR 10.11(c)(2)(ii), the Secretary of the Interior may make a recommendation for the culturally unidentifiable human remains and associated funerary objects with a "tribal land" or "aboriginal land" provenience to be reinterred under State or other law. Since 2016, the Office of the State Archaeologist Bioarchaeology Program has conducted consultations with The Tribes to develop an agreement, titled *Process for Reburial of Culturally Unidentifiable Native American Human Remains and Associated Funerary Objects Originating from Iowa* (hereafter referred to as "The Process"). Under The Process, the Office of the State Archaeologist (OSA) and The Tribes agree that OSA will reinter Native American human remains and associated funerary objects originating from Iowa according to Iowa law where: The Native American human remains and associated funerary objects originating from Iowa are under the control of OSA or the State Historical Society of Iowa (SHSI); OSA or SHSI has completed an inventory of these remains and objects, as required; OSA or SHSI has determined that these remains and objects are culturally unidentifiable; the Indian Tribe (if any) from whose tribal land, at the time of excavation or removal, the remains and objects were removed does not agree to accept control of the remains and objects; and no Indian Tribe that is recognized as aboriginal to the area from which the remains and objects were removed agrees to accept control of the remains and objects. In September 2018, OSA requested that the Secretary of the Interior, through the Native American Graves Protection and Repatriation Review Committee, approve the proposed reinterment of culturally unidentifiable Native American human remains and associated funerary objects according to Iowa law and The Process. The Review Committee, acting pursuant to its responsibility under 25 U.S.C. 3006(c)(5), considered the request at its October 2018 meeting and recommended to the Secretary that such reinterments proceed. A December 2018 letter on behalf of the Secretary of Interior from the Acting Associate Director for Cultural Resources, Partnerships, and Science, National Park Service, transmitted the authorization for the reinterment of culturally unidentifiable Native American human remains and associated funerary objects originating from Iowa, according to The Process and NAGPRA, and pending publication of a

Notice of Inventory Completion in the **Federal Register**. This notice fulfills that requirement.

Determinations Made by the Office of the State Archaeologist Bioarchaeology Program

Officials of the Office of the State Archaeologist Bioarchaeology Program have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice are Native American based on their association with documented prehistoric and/or historic archeological sites, cranial and dental morphology when observable, and/or osteological signatures of the antiquity of remains, such as tooth wear and taphonomic processes.
- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of 138 individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the 32 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity cannot be reasonably traced between the Native American human remains and associated funerary objects and any present-day Indian Tribe.
- Pursuant to 43 CFR 10.11(c)(2)(ii)(B), the human remains and associated funerary objects will be reinterred according to Iowa law and The Process.

Additional Requestors and Disposition

Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Dr. Lara Noldner, Office of the State Archaeologist Bioarchaeology Program, University of Iowa, 700 South Clinton Street, Iowa City, IA 52242, telephone (319) 384-0740, email lara-noldner@uiowa.edu, by April 17, 2019. After that date, if no additional requestors have come forward, the human remains and associated funerary objects may be reinterred.

The Office of the State Archaeologist Bioarchaeology Program is responsible for notifying The Tribes that this notice has been published.

Dated: February 19, 2019.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2019-04911 Filed 3-15-19; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS-WASO-NAGPRA-NPS0027339; PPWOCRADN0-PCU00RP14.R50000]

Notice of Inventory Completion: Historical Society of Saginaw County, Inc., Saginaw County, MI

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Historical Society of Saginaw County, Inc. has completed an inventory of human remains, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is no cultural affiliation between the human remains and any present-day Indian Tribes or Native Hawaiian organizations. Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request to the Historical Society of Saginaw County, Inc. If no additional requestors come forward, transfer of control of the human remains to the Indian Tribes or Native Hawaiian organizations stated in this notice may proceed.

DATES: Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to the Historical Society of Saginaw County, Inc. at the address in this notice by April 17, 2019.

ADDRESSES: Jeffrey Sommer, Historical Society of Saginaw County, Inc., 500 Federal Avenue, Saginaw, MI 48607, telephone (989) 752-2861 Ext. 308, email jsommer@castlemuseum.org.

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains under the control of the Historical Society of Saginaw County, Inc., Saginaw County, MI. The human remains were removed from an unknown location in Michigan.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25

U.S.C. 3003(d)(3) and 43 CFR 10.11(d). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the Historical Society of Saginaw County, Inc. professional staff in consultation with representatives of the Little Traverse Bay Bands of Odawa Indians, Michigan; Minnesota Chippewa Tribe, Minnesota (Six component reservations: Bois Forte Band (Nett Lake); Fond du Lac Band; Grand Portage Band; Leech Lake Band; Mille Lacs Band; White Earth Band); and the Saginaw Chippewa Indian Tribe of Michigan.

The Absentee-Shawnee Tribe of Indians of Oklahoma; Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation, Wisconsin; Bay Mills Indian Community, Michigan; Chippewa Cree Indians of the Rocky Boy's Reservation, Montana (previously listed as the Chippewa-Cree Indians of the Rocky Boy's Reservation, Montana); Citizen Potawatomi Nation, Oklahoma; Delaware Nation, Oklahoma; Delaware Tribe of Indians; Eastern Shawnee Tribe of Oklahoma; Forest County Potawatomi Community, Wisconsin; Grand Traverse Band of Ottawa and Chippewa Indians, Michigan; Hannahville Indian Community, Michigan; Keweenaw Bay Indian Community, Michigan; Kickapoo Traditional Tribe of Texas; Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas; Kickapoo Tribe of Oklahoma; Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin; Lac du Flambeau Band of Lake Superior Chippewa Indians of the Lac du Flambeau Reservation of Wisconsin; Lac Vieux Desert Band of Lake Superior Chippewa Indians of Michigan; Little River Band of Ottawa Indians, Michigan; Match-e-be-nash-she-wish Band of Pottawatomi Indians of Michigan; Miami Tribe of Oklahoma; Minnesota Chippewa Tribe, Minnesota (Six component reservations: Bois Forte Band (Nett Lake), Fond du Lac Band, Grand Portage Band, Leech Lake Band, Mille Lacs Band, White Earth Band); Nottawaseppi Huron Band of the Potawatomi, Michigan (previously listed as the Huron Potawatomi, Inc.); Ottawa Tribe of Oklahoma; Peoria Tribe of

Indians of Oklahoma; Pokagon Band of Potawatomi Indians, Michigan and Indiana; Prairie Band Potawatomi Nation (previously listed as the Prairie Band of Potawatomi Nation, Kansas); Quechan Tribe of the Fort Yuma Indian Reservation, California & Arizona; Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin; Red Lake Band of Chippewa Indians, Minnesota; Sac & Fox Nation of Missouri in Kansas and Nebraska; Sac & Fox Nation, Oklahoma; Sac & Fox Tribe of the Mississippi in Iowa; Sault Ste. Marie Tribe of Chippewa Indians, Michigan; Seneca Nation of Indians (previously listed as the Seneca Nation of New York); Seneca-Cayuga Tribe of Indians (previously listed as the Seneca Nation of New York); Shawnee Tribe; Sokaogon Chippewa Community, Wisconsin; Tonawanda Band of Seneca (previously listed as the Tonawanda Band of Seneca Indians of New York); St. Croix Chippewa Indians of Wisconsin; Turtle Mountain Band of Chippewa Indians of North Dakota; and the Wyandotte Nation were invited to consult, but did not participate.

Hereafter, all Tribes listed in this section are referred to as "The Consulted and Invited Tribes."

History and Description of the Remains

Human remains representing, at minimum, five individuals were removed from an undetermined location or locations in MI. According to an accompanying label, one individual was found in 1941. The date of removal for the other four individuals is unknown. No known individuals were identified. No associated funerary objects are present.

The human remains were found in the Ralph Stroebel collection. They are not listed specifically in museum records, but were probably part of a large accession of historical and archeological materials donated by Mr. Stroebel to the Historical Society of Saginaw County, Inc. in 1987. Most of the archeological materials in the Stroebel collection are known to have been surface collected from various sites in Michigan; the same is likely true for the human remains. However, no notes or other documentation describing the circumstances of discovery of the human remains is known to exist. The fragmentary human remains are determined to be Native American based on the presence of red ocher staining on some of the human remains, and that the human remains were part

of a larger collection of archeological materials comprised primarily of prehistoric Native American artifacts.

Determinations Made by the Historical Society of Saginaw County, Inc.

Officials of the Historical Society of Saginaw County, Inc. have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice are Native American based on the presence of red ocher staining on some of the human remains, and that the human remains were part of a larger collection of archeological materials comprised primarily of prehistoric Native American artifacts.

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of at least five individuals of Native American ancestry.

- Pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity cannot be reasonably traced between the Native American human remains and any present-day Indian Tribe.

- Treaties, Acts of Congress, or Executive Orders, indicate that the land from which the Native American human remains were removed is the aboriginal land of The Consulted and Invited Tribes.

- Pursuant to 43 CFR 10.11(c)(1), the disposition of the human remains may be to The Consulted and Invited Tribes.

Additional Requestors and Disposition

Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to Jeffrey Sommer, Historical Society of Saginaw County, Inc., 500 Federal Avenue, Saginaw, MI 48607, telephone (989) 752-2861 Ext. 308, email jsommer@castlemuseum.org, by April 17, 2019. After that date, if no additional requestors have come forward, transfer of control of the human remains to The Consulted and Invited Tribes may proceed.

The Historical Society of Saginaw County, Inc. is responsible for notifying The Consulted and Invited Tribes that this notice has been published.

Dated: February 12, 2019.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2019-04922 Filed 3-15-19; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR**National Park Service**

[NPS–WASO–NAGPRA–NPS0027334;
PPWOCRADNO–PCU00RP14.R50000]

**Notice of Inventory Completion:
Historical Society of Saginaw County,
Inc., Saginaw County, MI**

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Historical Society of Saginaw County, Inc. has completed an inventory of human remains, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is no cultural affiliation between the human remains and any present-day Indian Tribes or Native Hawaiian organizations. Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request to the Historical Society of Saginaw County, Inc. If no additional requestors come forward, transfer of control of the human remains to the Indian Tribes or Native Hawaiian organizations stated in this notice may proceed.

DATES: Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to the Historical Society of Saginaw County, Inc. at the address in this notice by April 17, 2019.

ADDRESSES: Jeffrey Sommer, Historical Society of Saginaw County, Inc., 500 Federal Avenue, Saginaw, MI 48607, telephone (989) 752–2861 Ext. 308, email jsommer@castlemuseum.org.

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains under the control of the Historical Society of Saginaw County, Inc., Saginaw County, MI. The human remains were removed from 20SA393 (Birch Run Road Site), Saginaw County, MI.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3) and 43 CFR 10.11(d). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is

not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the Historical Society of Saginaw County, Inc. professional staff in consultation with representatives of the Little Traverse Bay Bands of Odawa Indians, Michigan; Minnesota Chippewa Tribe, Minnesota (Six component reservations: Bois Forte Band (Nett Lake); Fond du Lac Band; Grand Portage Band; Leech Lake Band; Mille Lacs Band; White Earth Band); and the Saginaw Chippewa Indian Tribe of Michigan.

The Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation, Wisconsin; Bay Mills Indian Community, Michigan; Chippewa Cree Indians of the Rocky Boy's Reservation, Montana (previously listed as the Chippewa-Cree Indians of the Rocky Boy's Reservation, Montana); Grand Traverse Band of Ottawa and Chippewa Indians, Michigan; Keweenaw Bay Indian Community, Michigan; Kickapoo Traditional Tribe of Texas; Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas; Kickapoo Tribe of Oklahoma; Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin; Lac du Flambeau Band of Lake Superior Chippewa Indians of the Lac du Flambeau Reservation of Wisconsin; Lac Vieux Desert Band of Lake Superior Chippewa Indians of Michigan; Minnesota Chippewa Tribe, Minnesota (Six component reservations: Bois Forte Band (Nett Lake), Fond du Lac Band, Grand Portage Band, Leech Lake Band, Mille Lacs Band, White Earth Band); Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin; Red Lake Band of Chippewa Indians, Minnesota; Sac & Fox Nation of Missouri in Kansas and Nebraska; Sac & Fox Nation, Oklahoma; Sac & Fox Tribe of the Mississippi in Iowa; Sault Ste. Marie Tribe of Chippewa Indians, Michigan; Sokaogon Chippewa Community, Wisconsin; St. Croix Chippewa Indians of Wisconsin; and the Turtle Mountain Band of Chippewa Indians of North Dakota were invited to consult but did not participate.

Hereafter, all Tribes listed in this section are referred to as "The Consulted and Invited Tribes."

History and Description of the Remains

In 1979, human remains representing two individuals were removed from the Birch Run Road site (20SA393) in Saginaw County, MI. The site was investigated in 1978–1979 by the Saginaw Archaeological Commission to

assess and mitigate the impact of the Birch Run Road Project (FAS 7324). According to a report published in *The Michigan Archaeologist* (Vol. 32 Nos. 1–2), one burial (Feature 10) was excavated. The burial contained the poorly preserved and highly fragmented remains of two individuals, a two–three year-old child and an infant. A radiocarbon assessment dates the burial to A.D. 830 +/- 90 years. No known individuals were identified. No associated funerary objects are present. Cultural materials were present within the feature, but were interpreted as incidental inclusions within the pit fill.

Determinations Made by the Historical Society of Saginaw County, Inc.

Officials of the Historical Society of Saginaw County, Inc. have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice are Native American based on their archeological context and associated radiocarbon date.
- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of two individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity cannot be reasonably traced between the Native American human remains and any present-day Indian Tribe.
- According to final judgments of the Indian Claims Commission or the Court of Federal Claims, the land from which the Native American human remains were removed is the aboriginal land of the Saginaw Chippewa Indian Tribe of Michigan.
- Treaties, Acts of Congress, or Executive Orders, indicate that the land from which the Native American human remains were removed is the aboriginal land of The Consulted and Invited Tribes.
- Pursuant to 43 CFR 10.11(c)(1), the disposition of the human remains may be to The Consulted and Invited Tribes.

Additional Requestors and Disposition

Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to Jeffrey Sommer, Historical Society of Saginaw County, Inc., 500 Federal Avenue, Saginaw, MI 48607, telephone (989) 752–2861 Ext. 308, email jsommer@castlemuseum.org, by April 17, 2019. After that date, if no additional requestors have come forward, transfer of control of the

human remains to The Consulted and Invited Tribes may proceed.

The Historical Society of Saginaw County, Inc. is responsible for notifying The Consulted and Invited Tribes that this notice has been published.

Dated: February 12, 2019.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2019-04919 Filed 3-15-19; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS-WASO-NAGPRA-NPS0027329;
PPWOCRADNO-PCU00RP14.R50000]

Notice of Inventory Completion: The State Center Community College District—Fresno City College, Fresno, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The State Center Community College District—Fresno City College has completed an inventory of human remains and associated funerary objects, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the human remains and associated funerary objects and present-day Indian Tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian Tribes or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to the State Center Community College District—Fresno City College. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribes or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to the State Center Community College District—Fresno City College at the address in this notice by April 17, 2019.

ADDRESSES: Mary Beth Miller, Interim Dean of Social Sciences, in care of Jill Minar, Ph.D., Fresno City College of The State Center Community College

District, 1101 E University Avenue, Fresno, CA 93741, telephone (559) 442-8210, email jill.minar@fresnocitycollege.edu.

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the State Center Community College District—Fresno City College, Fresno, CA. The human remains and associated funerary objects were removed from CA-FRE-2849, Fresno County, CA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the State Center Community College District—Fresno City College professional staff in consultation with representatives of the Big Sandy Rancheria of Western Mono Indians of California (previously listed as the Big Sandy Rancheria of Mono Indians of California); Buena Vista Rancheria of Me-Wuk Indians of California; Cold Springs Rancheria of Mono Indians of California; Middletown Rancheria of Pomo Indians of California; Northfork Rancheria of Mono Indians of California; Picayune Rancheria of Chukchansi Indians of California; Santa Rosa Indian Community of the Santa Rosa Rancheria, California; Shingle Springs Band of Miwok Indians, Shingle Springs Rancheria (Verona Tract), California; Table Mountain Rancheria (previously listed as the Table Mountain Rancheria of California); Tejon Indian Tribe; Tule River Indian Tribes of the Tule River Reservation, California; and Tuolumne Band of Me-Wuk Indians of the Tuolumne Rancheria of California.

The California Valley Miwok Tribe, California; Chicken Ranch Rancheria of Me-Wuk Indians of California; Fort McDermitt Paiute and Shoshone Tribes of the Fort McDermitt Indian Reservation, Nevada and Oregon; Ione Band of Miwok Indians of California; Jackson Band of Miwok Indians (previously listed as the Jackson Rancheria of Me-Wuk Indians of California); Pyramid Lake Paiute Tribe of the Pyramid Lake Reservation,

Nevada; Reno-Sparks Indian Colony, Nevada; Walker River Paiute Tribe of the Walker River Reservation, Nevada; and Yerington Paiute Tribe of the Yerington Colony & Campbell Ranch, Nevada were contacted and invited to consult, but did not participate.

Two non-federally recognized Indian groups, the Dunlap Band of Mono Indians and the Traditional Choinumni Tribe, participated in consultation. One non-federally recognized group, the Wukchumni Tribes, was invited to consult, but did not participate.

Hereafter, all the Indian Tribes and non-federally recognized Indian groups listed in this section are referred to as "The Consulted and Notified Tribes and Groups."

History and Description of the Remains

In 1994, human remains representing, at minimum, two individuals were removed from CA-FRE-2849 in Fresno County, CA, by Don Wren, who excavated the site on a contract for the Auberry Road Project. In January 2017, an osteological examination of the faunal collections was conducted to determine if human remains were present. The human remains belong to one adult of indeterminate sex and one sub-adult of indeterminate sex and are represented by fourteen bone fragments and two teeth. No known individuals were identified. The 18 associated funerary objects are shell beads.

Determinations Made by the State Center Community College District—Fresno City College

Officials of the State Center Community College District—Fresno City College have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of two individuals of Native American ancestry, based on archeological context.

- Pursuant to 25 U.S.C. 3001(3)(A), the 18 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.

- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Big Sandy Rancheria of Western Mono Indians of California (previously listed as the Big Sandy Rancheria of Mono Indians of California) and the Table Mountain Rancheria (previously listed as the Table Mountain Rancheria of California), based on geographic information and oral tradition.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribes or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Mary Beth Miller, Interim Dean of Social Sciences, in care of Jill Minar, Ph.D., Fresno City College of The State Center Community College District, 1101 E University Avenue, Fresno, CA 93741, telephone (559) 442-8210, email jill.minar@fresnocitycollege.edu, by April 17, 2019. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to the Big Sandy Rancheria of Western Mono Indians of California (previously listed as the Big Sandy Rancheria of Mono Indians of California) and the Table Mountain Rancheria (previously listed as the Table Mountain Rancheria of California) may proceed.

The State Center Community College District—Fresno City College is responsible for notifying The Consulted and Notified Tribes and Groups that this notice has been published.

Dated: February 12, 2019.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2019-04916 Filed 3-15-19; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS-WASO-NAGPRA-NPS0027341;
PPWOCRADNO-PCU00RP14.R50000]

Notice of Inventory Completion: Historical Society of Saginaw County, Inc., Saginaw County, MI

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Historical Society of Saginaw County, Inc. has completed an inventory of human remains, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is no cultural affiliation between the human remains and any present-day Indian Tribes or Native Hawaiian organizations. Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request to the Historical Society of Saginaw County, Inc. If no

additional requestors come forward, transfer of control of the human remains to the Indian Tribes or Native Hawaiian organizations stated in this notice may proceed.

DATES: Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to the Historical Society of Saginaw County, Inc. at the address in this notice by April 17, 2019.

ADDRESSES: Jeffrey Sommer, Historical Society of Saginaw County, Inc., 500 Federal Avenue, Saginaw, MI 48607, telephone (989) 752-2861 Ext. 308, email jsommer@castlemuseum.org.

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains under the control of the Historical Society of Saginaw County, Inc., Saginaw County, MI. The human remains were removed from Saginaw County, Michigan.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3) and 43 CFR 10.11(d). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the Historical Society of Saginaw County, Inc. professional staff in consultation with representatives of the Little Traverse Bay Bands of Odawa Indians, Michigan; Minnesota Chippewa Tribe, Minnesota (Six component reservations: Bois Forte Band (Nett Lake); Fond du Lac Band; Grand Portage Band; Leech Lake Band; Mille Lacs Band; White Earth Band); and the Saginaw Chippewa Indian Tribe of Michigan.

The Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation, Wisconsin; Bay Mills Indian Community, Michigan; Chippewa Cree Indians of the Rocky Boy's Reservation, Montana (previously listed as the Chippewa-Cree Indians of the Rocky Boy's Reservation, Montana); Grand Traverse Band of Ottawa and Chippewa Indians, Michigan; Keweenaw Bay Indian Community, Michigan; Kickapoo Traditional Tribe of Texas; Kickapoo Tribe of Indians of the

Kickapoo Reservation in Kansas; Kickapoo Tribe of Oklahoma; Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin; Lac du Flambeau Band of Lake Superior Chippewa Indians of the Lac du Flambeau Reservation of Wisconsin; Lac Vieux Desert Band of Lake Superior Chippewa Indians of Michigan; Minnesota Chippewa Tribe, Minnesota (Six component reservations: Bois Forte Band (Nett Lake), Fond du Lac Band, Grand Portage Band, Leech Lake Band, Mille Lacs Band, White Earth Band); Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin; Red Lake Band of Chippewa Indians, Minnesota; Sac & Fox Nation of Missouri in Kansas and Nebraska; Sac & Fox Nation, Oklahoma; Sac & Fox Tribe of the Mississippi in Iowa; Sault Ste. Marie Tribe of Chippewa Indians, Michigan; Sokaogon Chippewa Community, Wisconsin; St. Croix Chippewa Indians of Wisconsin; and the Turtle Mountain Band of Chippewa Indians of North Dakota, were invited to consult, but did not participate.

Hereafter, all Tribes listed in this section are referred to as "The Consulted and Invited Tribes."

History and Description of the Remains

Human remains representing, at minimum, one individual were removed from the Schultz Site (20SA2) in Saginaw County, MI. An accompanying label indicates that the human remains were found in 1945. No known individuals were identified.

Human remains representing, at a minimum, one individual were removed from the Cook Site (20SA31) in Saginaw County, MI. An accompanying label indicates that the human remains were found in 1943. No known individuals were identified.

At an unknown date, human remains representing, at a minimum, one individual were removed from the Cavanaugh Site (20SA19) in Saginaw County, MI. No known individuals were identified.

The preceding human remains were found in the Ralph Stroebel collection. They are not listed specifically in museum records, but they may have been part of a large accession of historical and archeological material donated to the Historical Society of Saginaw County, Inc. in 1987. Most of the archeological materials in the Stroebel collection are known to have been surface collected; the same is likely true for the human remains. However, no notes or other documentation describing the circumstances of discovery of the human remains are known to exist. The

human remains are determined to be Native American based solely on their removal from sites known to have been occupied by Native Americans in prehistoric times. No associated funerary objects are present.

Determinations Made by the Historical Society of Saginaw County, Inc.

Officials of the Historical Society of Saginaw County, Inc. have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice are Native American based on their archeological context.
- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of three individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity cannot be reasonably traced between the Native American human remains and any present-day Indian Tribe.
- According to final judgments of the Indian Claims Commission or the Court of Federal Claims, the land from which the Native American human remains were removed is the aboriginal land of the Saginaw Chippewa Indian Tribe of Michigan.
- Treaties, Acts of Congress, or Executive Orders, indicate that the land from which the Native American human remains were removed is the aboriginal land of The Consulted and Invited Tribes.
- Pursuant to 43 CFR 10.11(c)(1), the disposition of the human remains may be to The Consulted and Invited Tribes.

Additional Requestors and Disposition

Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to Jeffrey Sommer, Historical Society of Saginaw County, Inc., 500 Federal Avenue, Saginaw, MI 48607, telephone (989) 752-2861 Ext. 308, email jsommer@castlemuseum.org, by April 17, 2019. After that date, if no additional requestors have come forward, transfer of control of the human remains to The Consulted and Invited Tribes may proceed.

The Historical Society of Saginaw County, Inc. is responsible for notifying The Consulted and Invited Tribes that this notice has been published.

Dated: February 12, 2019.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2019-04924 Filed 3-15-19; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

**[NPS-WASO-NAGPRA-NPS0027332;
PPWOCRADNO-PCU00RP14.R50000]**

Notice of Inventory Completion: University of Memphis, C.H. Nash Memorial Museum/Chucalissa Archaeological Museum, Memphis, TN

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The University of Memphis, C.H. Nash Memorial Museum/Chucalissa Archaeological Museum has completed an inventory of human remains and associated funerary objects, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is no cultural affiliation between the human remains and associated funerary objects and any present-day Indian Tribes or Native Hawaiian organizations. Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to the University of Memphis, C.H. Nash Memorial Museum/Chucalissa Archaeological Museum. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the Indian Tribes or Native Hawaiian organizations stated in this notice may proceed.

DATES: Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to the University of Memphis, C.H. Nash Memorial Museum/Chucalissa Archaeological Museum at the address in this notice by April 17, 2019.

ADDRESSES: University of Memphis, C.H. Nash Memorial Museum/Chucalissa Archaeological Museum, 1987 Indian Village Drive, Memphis, TN 38109, telephone (901) 785-3160, email chucalissa@memphis.edu.

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the Univ. of Memphis, C.H. Nash Memorial Museum/Chucalissa Archaeological

Museum, Memphis, TN. The human remains and associated funerary objects were removed from Benton, Decatur, Gibson, Hardin, Haywood, Humphreys, Lauderdale, Lake, McNairy, Obion, Perry, Shelby, Stewart, Tipton, and Wayne Counties, TN.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3) and 43 CFR 10.11(d). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the University of Memphis, C.H. Nash Memorial Museum/Chucalissa Archaeological Museum professional staff in consultation with representatives of the Eastern Band of Cherokee Indians; The Chickasaw Nation; The Muscogee (Creek) Nation; and United Keetoowah Band of Cherokee Indians in Oklahoma.

History and Description of the Remains

In 1971, human remains representing, at minimum, two individuals were removed from 40BN25 in Benton County, TN. The human remains were surface collected by University of Memphis, C.H. Nash Memorial Museum/Chucalissa Archaeological Museum (hereafter the C.H. Nash Museum at Chucalissa) staff from a shell midden during the Tennessee River Survey. The human remains (40BN25/1, 40BN25/2) represent an adult of unknown sex. No known individuals were identified. No associated funerary objects are present.

In 1971, human remains representing, at minimum, two individuals were removed from 40DR10 in Decatur County, TN. The human remains were surface collected by C.H. Nash Museum at Chucalissa staff during the Tennessee River Survey. The human remains (40DR10/58) represent an adult of unknown sex. No known individuals were identified. No associated funerary objects are present.

In 1972, human remains representing, at minimum, one individual were removed from the Perryville South site, 40DR28, in Decatur County, TN. The human remains were surface collected on Tennessee Valley Authority property by the Department of Anthropology, University of Memphis, as part of the Tennessee River Survey, and they were donated to the C.H. Nash Museum at

Chucalissa after collection. The age and sex of the individual is unknown (40DR28/59). No known individuals were identified. No associated funerary objects are present.

On an unknown date, human remains representing, at minimum, one individual were removed from the White Creek site, 40DR238, in Decatur County, TN. The human remains were removed from a shell midden by J. Pevahouse. In 1970, Pevahouse donated his collections (C-28—C39), including these human remains (C-39), to the C.H. Nash Museum at Chucalissa. The human remains (40DR238/B-1) represent one female adult. No known individuals were identified. The 17 associated funerary objects are 11 miscellaneous pottery sherds, one projectile point/knife fragment, one drill fragment, and four animal bones.

On an unknown date, human remains representing, at minimum, one individual were removed from the Duck Home site, 40GB17, in Gibson County, TN. The human remains were removed by H. Crenshaw. In 1991, Crenshaw donated his collection (C-92), including these human remains, to the C.H. Nash Museum at Chucalissa. The human remains (40GB17/B-1) represent an adult of unknown sex. No known individuals were identified. The five associated funerary objects are two stones, two miscellaneous pottery sherds, and one miscellaneous non-human bone.

In 1973, human remains representing, at minimum, one individual were removed from 40GB42 in Gibson County, TN. The human remains were removed by C.H. Nash Museum at Chucalissa staff on behalf of the US Army Corps of Engineers, Memphis District. The human remains (40GB42/B-1) represent an adult of unknown sex. No known individuals were identified. The 73 associated funerary objects are three lots of grog-tempered sherds, one biface fragment, one spokeshave, five baked clay fragments, one utilized flake, one piece of chipping shatter, four pieces of iron siltstone, eight pieces of iron sandstone, 17 miscellaneous animal bone fragments, one mussel shell fragments, one Baytown Plain sherd, 21 baked clay fragments, one hammerstone, one blank flake, one broken rock, four fragments of iron siltstone, one iron sandstone fragment, and one mussel shell fragment.

In 1973, human remains representing, at minimum, 12 individuals were removed from 40GB42 in Gibson County, TN. The human remains were removed by C.H. Nash Museum at Chucalissa staff. The human remains (40GB42/B-2, 40GB42/B-3, 40GB42/B-

4, 40GB42/B-5, 40GB42/3, 40GB42/8, 40GB42/191, 40GB42/263, 40GB42/286) represent one adult female; four subadults of unknown sex; and seven adults of unknown sex. No known individuals were identified. The 29 associated funerary objects are one shell disc bead, two stones, 10 pieces of unidentified bone/organic material, one piece of non-human material, four animal bones, and 11 mixed pieces of unidentified material.

In 1974, human remains representing, at minimum, one individual were removed from the Paul Lancaster site, 40GB64, in Gibson County, TN. The human remains were surface collected by H. Crenshaw. In 1991, Crenshaw donated his collection (C-92), including these human remains, to the C.H. Nash Museum at Chucalissa. The human remains (40GB64/19) represent an adult male. No known individuals were identified. No associated funerary objects are present.

In 1970, human remains representing, at minimum, two individuals were removed from 40HD6 in Haywood County, TN. The human remains were surface collected by C.H. Nash Museum at Chucalissa staff in conjunction with the Southwestern at Memphis (now Rhodes College) field school. The human remains (40HD6/2) represent an adult and a subadult, both of unknown sex. No known individuals were identified. No associated funerary objects are present.

In 1970, human remains representing, at minimum, nine individuals were removed from 40HD6 in Haywood County, TN. The human remains were removed by Southwestern at Memphis (now Rhodes College) field school. In 1972, the human remains were transferred to the C.H. Nash Museum at Chucalissa. The human remains (40HD6/15a, 40HD6/24, 40HD6/37a, 40HD6/48, 40HD6/53, 40HD6/110-1, 40HD6/137, 40HD6/155) represent eight adults of unknown sex, and one individual of unknown age and sex. No known individuals were identified. No associated funerary objects are present.

In 1973, human remains representing, at minimum, 26 individuals were removed from 40HD36 in Haywood County, TN. The human remains were removed by C.H. Nash Museum at Chucalissa staff and representatives from the Memphis Pink Palace Museum Young Curators Association in a salvage operation, after burials were exposed by a bulldozer. The human remains (40HD36/B-1, 40HD36/B-2, 40HD36/B-3, 40HD36/B-4, 40HD36/B-5, 40HD36/B-6, 40HD36/B-7, 40HD36/B-8, 40HD36/B-9, 40HD36/B-10, 40HD36/B-11, 40HD36/B-13, 40HD36/B-14,

40HD36/B-15, 40HD36/4, 40HD36/13, 40HD36/14, 40HD36/19, 40HD36/20, 40HD36/26, 40HD36/29) represent three adult males; two subadults of unknown sex; and 21 adults of unknown sex. No known individuals were identified. The 23 associated funerary objects are one celt, 10 soil samples, one worked animal bone, four miscellaneous animal bone, five pieces of clay, and two pieces of stone.

On an unknown date, human remains representing, at minimum, two individuals were removed from 40HR203 in Hardin County, TN. The human remains were removed by University of Memphis staff. In 2009–2011, all archeological collections from the University of Memphis, including these human remains, were transferred to the C.H. Nash Museum at Chucalissa. The human remains (HR.10.2009) represent two individuals of unknown age and sex. No known individuals were identified. No associated funerary objects are present.

In 1971, human remains representing, at minimum, two individuals were removed from 40HR222 in Hardin County, TN. The human remains were surface collected by the Department of Anthropology, University of Memphis, and were donated to the C.H. Nash Museum at Chucalissa after collection. The human remains (40HR22/29) represent two adults of unknown sex. No known individuals were identified. No associated funerary objects are present.

In 1977, human remains representing, at minimum, four individuals were removed from 40HR222 in Hardin County, TN. The human remains were surface collected by C.H. Nash Museum at Chucalissa staff. The human remains (40HR222/83, 40HR222/84) represent four adults of unknown sex. No known individuals were identified. No associated funerary objects are present.

In 1971, human remains representing, at minimum, two individuals were removed from 40HR223 in Hardin County, TN. The human remains were surface collected by the Department of Anthropology, University of Memphis, during the Tennessee River Survey, and were donated to the C.H. Nash Museum at Chucalissa after collection. The human remains (40HR223/2) represent two adults of unknown sex. No known individuals were identified. No associated funerary objects are present.

On an unknown date, human remains representing, at minimum, two individuals were removed from the Wolf Island site, 40HR224, in Hardin County, TN. The human remains were removed by J. Pevahouse. In 1970, Pevahouse donated his collections (C-

28—C39), including these human remains (C-36), to the C.H. Nash Museum at Chucalissa. The human remains (40HR224/121-Burial 1, 40HR224/122-Burial 2) represent two adults of unknown sex. No known individuals were identified. No associated funerary objects are present.

In 1971, human remains representing, at minimum, one individual were removed from the Wolf Island site, 40HR224, in Hardin County, TN. The human remains were surface collected by the Department of Anthropology, University of Memphis, during the Tennessee River Survey, and were donated to the C.H. Nash Museum at Chucalissa after collection. The human remains (40HR224/24) represent one adult of unknown sex. No known individuals were identified. No associated funerary objects are present.

On an unknown date, human remains representing, at minimum, six individuals were removed from the Emerson Mound site, 40HR232, in Hardin County, TN. The human remains were removed by J. Pevahouse. In 1970, Pevahouse donated his collections (C-28—C39), including these human remains (C-28), to the C.H. Nash Museum at Chucalissa. The human remains (40HR232/B-1, 40HR232/B-2, 40HR232/B-3, 40HR232/B-4, 40HR232/B-5, 40HR232/B-6) represent six adults of unknown sex. No known individuals were identified. The eight associated funerary objects are one utilized flake, one mussel shell, one charcoal sample, three pieces of charcoal, and two pebbles.

In 1971, human remains representing, at minimum, one individual were removed from the Swallow Bluff Island site, 40HR235 (changed to 40HR16), in Hardin County, TN. The human remains were removed by C.H. Nash Museum at Chucalissa staff. The human remains (40HR235/B-1) represent one adult male. No known individuals were identified. The 21 associated funerary objects are: One ceramic jar, one Mulberry Creek sherd, two lots of flakes, one hammerstone fragment, one grindstone fragment, two lots of limestone fragments, one lot of deer bones, one freshwater shell, two lots of mussel shell fragments, two cores, one piece of petrified wood, one lot of turkey bones, one lot of miscellaneous sherds, one projectile point fragment, one lot of pebbles, one cobble, and one lot of turtle shell and deer bone fragments.

In 1972, human remains representing, at minimum, three individuals were removed from the Hatley Creek site, 40HR236, in Hardin County, TN. The human remains were surface collected

by C.H. Nash Museum at Chucalissa staff from a shell midden in a plowed field during the Tennessee River Survey. The human remains (40HR236/2, 40HR236/63) represent two adults and one subadult; the sex of all three individuals is unknown. No known individuals were identified. No associated funerary objects are present.

In 1977, human remains representing, at minimum, 12 individuals were removed from the Hatley Creek site, 40HR236, in Hardin County, TN. The human remains were removed by University of Memphis staff. In 2009–2011, all archeological collections from the University of Memphis, including these human remains, were transferred to the C.H. Nash Museum at Chucalissa. The human remains (40HR236/2011.04.01, 40HR236/2011.04.02, 40HR236/2011.04.03, 40HR236/2011.04.04, 40HR236/2011.04.05, 40HR236/2011.04.10) represent twelve individuals of unknown age and sex. No known individuals were identified. The 33 associated funerary objects are four shell beads, 10 lithic artifacts, 13 ceramic sherds, and six shell fragments.

In 1975, human remains representing, at minimum, one individual were removed from the Savannah Bridge site, 40HR275, in Hardin County, TN. The human remains were surface collected by the Department of Anthropology, University of Memphis. The human remains (40HR275/41) represent one adult of unknown sex. No known individuals were identified. No associated funerary objects are present.

In 1972, human remains representing, at minimum, two individuals were removed from 40HR238 in Hardin County, TN. The human remains were surface collected by staff of C.H. Nash Museum at Chucalissa. The human remains (40HR238/41) represent two adults of unknown age and sex. No known individuals were identified. No associated funerary objects are present.

In 1965, human remains representing, at minimum, two individuals were removed from the W.N. McCrary site, 40HS41, in Humphreys County, TN. The human remains were surface collected by the Department of Anthropology, University of Memphis, as part of the Kentucky Lake Project. The human remains (40HS41/B-1, 40HS41/21) represent one adult female and one adult of unknown sex. No known individuals were identified. No associated funerary objects are present.

In 1968, human remains representing, at minimum, two individuals were removed from 40HS76 in Humphreys County, TN. The human remains were surface collected by the Department of Anthropology, University of Memphis,

as part of the Kentucky Lake Project. The human remains (40HS76/3) represent two adults of unknown sex. No known individuals were identified. No associated funerary objects are present.

In 1966 or 1969, human remains representing, at minimum, four individuals were removed from 40LA2 in Lauderdale County, TN. The human remains were surface collected by C.H. Nash Museum at Chucalissa staff. The human remains (40LA2/70, 40LA2/78) represent four adults of unknown sex. No known individuals were identified. No associated funerary objects are present.

In 1966, human remains representing, at minimum, two individuals were removed from 40LA4 in Lauderdale County, TN. The human remains were surface collected by C.H. Nash Museum at Chucalissa staff. The human remains (40LA4/27) represent two adults of unknown sex. No known individuals were identified. No associated funerary objects are present.

In 1967, human remains representing, at minimum, two individuals were removed from Mound B at 40LA6 in Lauderdale County, TN. The human remains were surface collected by C.H. Nash Museum at Chucalissa staff. The human remains (40LA6/Mound B/6B) represent one adult and one sub-adult, both of unknown sex. No known individuals were identified. No associated funerary objects are present.

In 1970, human remains representing, at minimum, three individuals were removed from 40LA7 in Lauderdale County, TN. The human remains were removed from a post mold by C.H. Nash Museum at Chucalissa staff. The human remains (40LA7/140, 40LA7/217-1) represent three adults of unknown sex. No known individuals were identified. No associated funerary objects are present.

In 1969, human remains representing, at minimum, one individual were removed from 40LA11 in Lauderdale County, TN. The human remains were surface collected by C.H. Nash Museum at Chucalissa staff. The human remains (40LA11/10) represent one sub-adult of unknown sex. No known individuals were identified. No associated funerary objects are present.

In 1970, human remains representing, at minimum, two individuals were removed from 40LA25 in Lauderdale County, TN. The human remains were surface collected by C.H. Nash Museum at Chucalissa staff as part of a survey for the Army Corps of Engineers, Memphis District. The human remains (40LA25/2) represent two adults of unknown sex. No known individuals were identified.

No associated funerary objects are present.

On an unknown date, human remains representing, at minimum, two individuals were removed from 40LA45 in Lauderdale County, TN. The human remains were surface collected by L.E. Ramsey. In 1975, Ramsey donated his collection (C-44), including these human remains, to the C.H. Nash Museum at Chucalissa. The human remains (40LA45/4 and 40LA45/5) represent two adults of unknown sex. No known individuals were identified. No associated funerary objects are present.

In 1980, human remains representing, at minimum, two individuals were removed from 40LK A-80 in Lake County, TN. The human remains were removed by C.H. Nash Museum at Chucalissa staff. The human remains (A1980.10.01/8) represent two adults of unknown sex. No known individuals were identified. No associated funerary objects are present.

In 1971, human remains representing, at minimum, one individual were removed from 40MY2 in McNairy County, TN. The human remains were surface collected by the Department of Anthropology, University of Memphis, during the Tennessee River Survey. The human remains (40MY2/85) represent one adult of unknown sex. No known individuals were identified. No associated funerary objects are present.

In 1975, human remains representing, at minimum, two individuals were removed from 40OB113 in Obion County, TN. The human remains were surface collected by C.H. Nash Museum at Chucalissa staff as part of the Reelfoot-Indian Creek Project for the U.S. Department of Agriculture, Soil Conservation Service. The human remains represent two adults of unknown sex. No known individuals were identified. No associated funerary objects are present.

On an unknown date, human remains representing, at minimum, one individual were removed from the Ladies Bluff site, 40PY25, in Perry County, TN. The human remains were removed by J. Pevahouse. In 1970, Pevahouse donated his collections (C-28—C39), including these human remains (C-35), to the C.H. Nash Museum at Chucalissa. The human remains (40PY25/B-1) represent one adult male. No known individuals were identified. The one associated funerary object is an animal bone.

On an unknown date, human remains representing, at minimum, three individuals were removed from 40PY55 in Perry County, TN. The human remains were removed by Ronnie

Pevahouse. In 1976, Pevahouse donated his collections (C-45—C-55), including these human remains (C-49), to the C.H. Nash Museum at Chucalissa. The human remains (40PY55/4, 40PY55/6) represent three adults of unknown sex. No known individuals were identified. No associated funerary objects are present.

Between 1963 and 1965, human remains representing, at minimum, six individuals were removed from the Spring Creek site, 40PY207, in Perry County, TN. The human remains were removed by J. Pevahouse. In 1970, Pevahouse donated his collections (C-28—C-39), including these human remains (C-31), to the C.H. Nash Museum at Chucalissa. The human remains (40PY207/B-1, 40PY207/B-2, 40PY207/B-3, 40PY207/140, 40PY207/157, 40PY207/161) represent three adult males, one sub-adult male, and two adults of unknown sex. No known individuals were identified. The 31 associated funerary objects are one projectile point, one drill, one blocky debris, one perforated antler, one bone awl, three bone drift punches, one lot of deer bones, four bar gorget fragments, one slate fragment, and 17 miscellaneous animal bones.

Between 1972 and 1974, human remains representing, at minimum, nine individuals were removed from the Spring Creek site, 40PY207, in Perry County, TN. The human remains were removed by University of Memphis staff. In 2009–2011, all archeological collections from the University of Memphis, including these human remains, were transferred to the C.H. Nash Museum at Chucalissa. The human remains (40PY207/2009.02.02, 40PY207/2009.05.08, 40PY207/2009.07.02, 40PY207/2009.10.03, 40PY207/2009.10.05, 40PY207/2009.22.01, HR.09.2009, HR.42.2010, HR.44.2010) represent one sub-adult of unknown sex, and eight individuals of unknown age and sex. No known individuals were identified. No associated funerary objects are present.

On an unknown date, human remains representing, at minimum, two individuals were removed from 40PY242 in Perry County, TN. The human remains were surface collected by Andy Combs. In 1981, Combs donated his collection (C-63), including these human remains, to the C.H. Nash Museum at Chucalissa. The human remains (40PY242/14) represent two adults of unknown sex. No known individuals were identified. No associated funerary objects are present.

On an unknown date, human remains representing, at minimum, four individuals were removed from the

W.R. Tucker site in Perry County, TN. The human remains were removed by J. Pevahouse. In 1970, Pevahouse donated his collections (C-28—C-39), including these human remains (C-34), to the C.H. Nash Museum at Chucalissa. The human remains (C-34/B-1, C-34/B-2, C-34/20) represent one sub-adult, aged +/- 6 years, of unknown sex; and two adults of unknown sex. No known individuals were identified. The two associated funerary objects are one ceramic jar and one animal bone.

Between the late 1970's and 1982, human remains representing, at minimum, seven individuals were removed from the Guice's Creek site, 40SW71, in Stewart County, TN. The human remains were removed by University of Memphis staff. The age and sex of these individuals are unknown. No known individuals were identified. No associated funerary objects are present.

In 1966, human remains representing, at minimum, one individual were removed from the Edgefield Mounds site, 40SY28, in Shelby County, TN. The human remains were surface collected by C.H. Nash Museum at Chucalissa staff. The human remains (40SY28/41) represent one adult of unknown sex. No known individuals were identified. No associated funerary objects are present.

On an unknown date, human remains representing, at minimum, one individual were removed from the Benjestown Road site (also known as the Jeter Site and Edgefield Mounds Site), 40SY28, in Shelby County, TN. The human remains were removed by Jerry Jarvis. In 1978, Jarvis donated his collection (C-59), including these human remains, to the C.H. Nash Museum at Chucalissa. The human remains (C-59/40-1) represent one adult of unknown sex. No known individuals were identified. The one associated funerary object is a ceramic bowl.

In 1965, human remains representing, at minimum, one individual were removed from the Rast Farm site, 40SY75, in Shelby County, TN. The human remains were removed by C.H. Nash Museum at Chucalissa staff. The age and sex of the individual (40SY75/32) are unknown. No known individuals were identified. No associated funerary objects are present.

In 1967, human remains representing, at minimum, one individual were removed from the Rast Farm site, 40SY75, in Shelby County, TN. The human remains were removed by C.H. Nash Museum at Chucalissa staff. The human remains (40SY75/B-1) represent one sub-adult of unknown sex. No known individuals were identified. The

one associated funerary object is a ceramic bottle.

In 1972, human remains representing, at minimum, two individuals were removed from 40SY215 in Shelby County, TN. The human remains were surface collected by C.H. Nash Museum at Chucalissa staff as part of the Wolf River survey. The human remains (40SY215/4A) represent two adults of unknown sex. No known individuals were identified. No associated funerary objects are present.

Around 1975, human remains representing, at minimum, two individuals were removed from 40SY321 in Shelby County, TN. The human remains were surface collected by C.H. Nash Museum at Chucalissa staff as part of the Loosahatchie River Survey. The human remains (40SY321/17, 40SY321/18) represent one adult and one subadult, both of unknown sex. No known individuals were identified. No associated funerary objects are present.

In the 1950's, human remains representing, at minimum, two individuals were removed from the Neshoba site, in Shelby County, TN. The human remains were surface collected by the Memphis Archaeological and Geological Society and donated to the Memphis Museums System. In 1984, the Memphis Museums System donated the human remains to the C.H. Nash Museum at Chucalissa. The human remains (MAGS Lot #31/10) represent one adult and one sub-adult, both of unknown sex. No known individuals were identified. No associated funerary objects are present.

In 1959 or 1966, human remains representing, at minimum, three individuals were removed from the Hatchie site, 40TP1, in Tipton County, TN. The human remains were surface collected by staff of the Tennessee Department of Conservation and the C.H. Nash Museum at Chucalissa. The human remains (40TP1/12, 40TP1/57) represent two adults and one sub-adult, all of unknown sex. No known individuals were identified. No associated funerary objects are present.

On an unknown date, human remains representing, at minimum, one individual were removed from the Mouth of the Hatchie River site, 40TP1, in Tipton County, TN. The human remains were removed by an unknown private collector. Sometime prior to 1990, this unknown collector donated his collection (C-88) to the C.H. Nash Museum at Chucalissa. The human remains (40TP1/72) represent one adult of unknown sex. No known individuals were identified. No associated funerary objects are present.

On an unknown date, human remains representing, at minimum, one individual were removed from the Mouth of the Hatchie River site, 40TP1, in Tipton County, TN. The human remains were removed by University of Memphis staff. In 2009–2011, all archeological collections from the University of Memphis, including these human remains, were transferred to the C.H. Nash Museum at Chucalissa. The age and sex of the individual (HR.05.2009) is unknown. No known individuals were identified. No associated funerary objects are present.

In 1969, human remains representing, at minimum, one individual were removed from 40TP12 in Tipton County, TN. The human remains were surface collected by C.H. Nash Museum at Chucalissa staff. The human remains (40TP12/2) represent one adult of unknown sex. No known individuals were identified. No associated funerary objects are present.

On an unknown date, human remains representing, at minimum, one individual were removed from 40TP26 in Tipton County, TN. The human remains were removed by an unknown private collector. Sometime prior to 1990, this unknown collector donated his collection (C-88) to the C.H. Nash Museum at Chucalissa. The human remains (40TP26/23) represent one adult of unknown sex. No known individuals were identified. No associated funerary objects are present.

In 1962, human remains representing, at minimum, one individual were removed from 40WY206 in Wayne County, TN. The human remains were surface collected by C.H. Nash Museum at Chucalissa staff during a survey sponsored by Memphis Press Scimitar. The human remains (40WY206/43) represent one adult of unknown sex. No known individuals were identified. No associated funerary objects are present.

Determinations Made by the University of Memphis, C.H. Nash Memorial Museum/Chucalissa Archaeological Museum

Officials of the University of Memphis, C.H. Nash Memorial Museum/Chucalissa Archaeological Museum have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice are Native American based on osteological examination, museum records, and/or archeological context.
- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of 171 individuals of Native American ancestry.

- Pursuant to 25 U.S.C. 3001(3)(A), the 245 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.

- Pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity cannot be reasonably traced between the Native American human remains and associated funerary objects and any present-day Indian Tribe.

- According to final judgments of the Indian Claims Commission or the Court of Federal Claims, the land from which the Native American human remains and associated funerary objects were removed is the aboriginal land of the Eastern Band of Cherokee Indians; The Chickasaw Nation; and United Keetoowah Band of Cherokee Indians in Oklahoma.

- Treaties, Acts of Congress, or Executive Orders, indicate that the land from which the Native American human remains and associated funerary objects were removed is the aboriginal land of the Eastern Band of Cherokee Indians; The Chickasaw Nation; and United Keetoowah Band of Cherokee Indians in Oklahoma.

- Pursuant to 43 CFR 10.11(c)(1), the disposition of the human remains and associated funerary objects may be to the Eastern Band of Cherokee Indians; The Chickasaw Nation; and United Keetoowah Band of Cherokee Indians in Oklahoma.

Additional Requestors and Disposition

Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Melissa Buchner, University of Memphis, C.H. Nash Memorial Museum/Chucalissa Archaeological Museum, 1987 Indian Village Drive, Memphis, TN 38109, telephone (901) 785-3160, email chucalissa@memphis.edu, by April 17, 2019. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to the Eastern Band of Cherokee Indians; The Chickasaw Nation; and United Keetoowah Band of Cherokee Indians in Oklahoma may proceed.

The University of Memphis, C.H. Nash Memorial Museum/Chucalissa Archaeological Museum is responsible for notifying the Eastern Band of Cherokee Indians; The Chickasaw Nation; The Muscogee (Creek) Nation; and United Keetoowah Band of

Cherokee Indians in Oklahoma that this notice has been published.

Dated: February 12, 2019.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2019-04912 Filed 3-15-19; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS-WASO-NAGPRA-NPS0027337;
PPWOCRADN0-PCU00RP14.R50000]

Notice of Inventory Completion: Historical Society of Saginaw County, Inc., Saginaw County, MI

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Historical Society of Saginaw County, Inc. has completed an inventory of human remains, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is no cultural affiliation between the human remains and any present-day Indian Tribes or Native Hawaiian organizations. Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request to the Historical Society of Saginaw County, Inc. If no additional requestors come forward, transfer of control of the human remains to the Indian Tribes or Native Hawaiian organizations stated in this notice may proceed.

DATES: Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to the Historical Society of Saginaw County, Inc. at the address in this notice by April 17, 2019.

ADDRESSES: Jeffrey Sommer, Historical Society of Saginaw County, Inc., 500 Federal Avenue, Saginaw, MI 48607, telephone (989) 752-2861 Ext. 308, email jsommer@castlemuseum.org.

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains under the control of the Historical Society of Saginaw County, Inc., Saginaw County, MI. The human remains were removed from an uncertain location, but probably somewhere in Saginaw County, MI.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3) and 43 CFR 10.11(d). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the Historical Society of Saginaw County, Inc. professional staff in consultation with representatives of the Little Traverse Bay Bands of Odawa Indians; Minnesota Chippewa Tribe, Minnesota (Six component reservations: Bois Forte Band (Nett Lake); Fond du Lac Band; Grand Portage Band; Leech Lake Band; Mille Lacs Band; White Earth Band); and the Saginaw Chippewa Indian Tribe of Michigan.

The Absentee-Shawnee Tribe of Indians of Oklahoma; Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation, Wisconsin; Bay Mills Indian Community, Michigan; Chippewa Cree Indians of the Rocky Boy's Reservation, Montana (previously listed as the Chippewa-Cree Indians of the Rocky Boy's Reservation, Montana); Citizen Potawatomi Nation, Oklahoma; Delaware Nation, Oklahoma; Delaware Tribe of Indians; Eastern Shawnee Tribe of Oklahoma; Forest County Potawatomi Community, Wisconsin; Grand Traverse Band of Ottawa and Chippewa Indians, Michigan; Hannahville Indian Community, Michigan; Keweenaw Bay Indian Community, Michigan; Kickapoo Traditional Tribe of Texas; Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas; Kickapoo Tribe of Oklahoma; Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin; Lac du Flambeau Band of Lake Superior Chippewa Indians of the Lac du Flambeau Reservation of Wisconsin; Lac Vieux Desert Band of Lake Superior Chippewa Indians of Michigan; Little River Band of Ottawa Indians, Michigan; Match-e-be-nash-she-wish Band of Pottawatomi Indians of Michigan; Miami Tribe of Oklahoma; Minnesota Chippewa Tribe, Minnesota (Six component reservations: Bois Forte Band (Nett Lake), Fond du Lac Band, Grand Portage Band, Leech Lake Band, Mille Lacs Band, White Earth Band); Nottawaseppi Huron Band of the Potawatomi, Michigan (previously listed as the Huron Potawatomi, Inc.); Ottawa Tribe of Oklahoma; Peoria Tribe of Indians of Oklahoma; Pokagon Band of

Potawatomi Indians, Michigan and Indiana; Prairie Band of Potawatomi Nation (previously listed as the Prairie Band of Potawatomi Nation, Kansas); Quechan Tribe of the Fort Yuma Indian Reservation, California & Arizona; Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin; Red Lake Band of Chippewa Indians, Minnesota; Sac & Fox Nation of Missouri in Kansas and Nebraska; Sac & Fox Nation, Oklahoma; Sac & Fox Tribe of the Mississippi in Iowa; Sault Ste. Marie Tribe of Chippewa Indians, Michigan; Seneca Nation of Indians (previously listed as the Seneca Nation of New York); Seneca-Cayuga Nation (previously listed as the Seneca-Cayuga Tribe of Oklahoma); Sokaogon Chippewa Community, Wisconsin; St. Croix Chippewa Indians of Wisconsin; Tonawanda Band of Seneca (previously listed as the Tonawanda Band of Seneca Indians of New York); Turtle Mountain Band of Chippewa Indians of North Dakota; and the Wyandotte Nation were invited to consult, but did not participate.

Hereafter, all Tribes listed in this section are referred to as "The Consulted and Invited Tribes."

History and Description of the Remains

At an unknown date, human remains representing, at minimum, two individuals were removed from an undetermined location or locations, probably in Saginaw County, MI. No known individuals were identified. The human remains were found in the Peacock collection. There are no known accession or other records indicating when or by whom this collection was deposited at the Historical Society of Saginaw County. Some of the archeological materials in the Peacock collection are known to have been collected from various sites in Saginaw County, MI, and the same is probably true for the human remains. However, no notes or other documentation describing the circumstances of discovery of the human remains are known to exist. The fragmentary human remains are determined to be Native American based on their being part of a larger collection of archeological materials comprised primarily of prehistoric Native American artifacts. No associated funerary objects are present.

Determinations Made by the Historical Society of Saginaw County, Inc.

Officials of the Historical Society of Saginaw County, Inc. have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice

are Native American based on their being part of a larger collection of archeological materials comprised primarily of prehistoric Native American artifacts.

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of two individuals of Native American ancestry.

- Pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity cannot be reasonably traced between the Native American human remains and any present-day Indian Tribe.

- According to final judgments of the Indian Claims Commission or the Court of Federal Claims, the land from which the Native American human remains were removed is the aboriginal land of the Saginaw Chippewa Indian Tribe of Michigan.

- Treaties, Acts of Congress, or Executive Orders, indicate that the land from which the Native American human remains were removed is the aboriginal land of The Consulted and Invited Tribes.

- Pursuant to 43 CFR 10.11(c)(1), the disposition of the human remains may be to The Consulted and Invited Tribes.

Additional Requestors and Disposition

Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to Jeffrey Sommer, Historical Society of Saginaw County, Inc., 500 Federal Avenue, Saginaw, MI 48607, telephone (989) 752-2861 Ext. 308, email jsommer@castlemuseum.org, by April 17, 2019. After that date, if no additional requestors have come forward, transfer of control of the human remains to The Consulted and Invited Tribes may proceed.

The Historical Society of Saginaw County, Inc. is responsible for notifying The Consulted and Invited Tribes that this notice has been published.

Dated: February 12, 2019.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2019-04921 Filed 3-15-19; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS-WASO-NAGPRA-NPS0027330; PPWOCRADN0-PCU00RP14.R50000]

Notice of Inventory Completion: The State Center Community College District—Fresno City College, Fresno, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The State Center Community College District—Fresno City College has completed an inventory of human remains and associated funerary objects, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the human remains and associated funerary objects and present-day Indian Tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to the State Center Community College District—Fresno City College. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to the State Center Community College District—Fresno City College at the address in this notice by April 17, 2019.

ADDRESSES: Mary Beth Miller, Interim Dean of Social Sciences, in care of Jill Minar, Ph.D., Fresno City College of The State Center Community College District, 1101 E University Avenue, Fresno, CA 93741, telephone (559) 442-8210, email jill.minar@fresnocitycollege.edu.

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the State Center Community College District—Fresno City College, Fresno,

CA. The human remains and associated funerary objects were removed from CA-FRE-622, Fresno County, CA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the State Center Community College District—Fresno City College professional staff in consultation with representatives of the Big Sandy Rancheria of Western Mono Indians of California (previously listed as the Big Sandy Rancheria of Mono Indians of California); Buena Vista Rancheria of Me-Wuk Indians of California; Cold Springs Rancheria of Mono Indians of California; Middletown Rancheria of Pomo Indians of California; Northfork Rancheria of Mono Indians of California; Picayune Rancheria of Chukchansi Indians of California; Santa Rosa Indian Community of the Santa Rosa Rancheria, California; Shingle Springs Band of Miwok Indians, Shingle Springs Rancheria (Verona Tract), California; Table Mountain Rancheria (previously listed as the Table Mountain Rancheria of California); Tejon Indian Tribe; Tule River Indian Tribe of the Tule River Reservation, California; and the Tuolumne Band of Me-Wuk Indians of the Tuolumne Rancheria of California.

An invitation to consult was extended to the California Valley Miwok Tribe, California; Chicken Ranch Rancheria of Me-Wuk Indians of California; Fort McDermitt Paiute and Shoshone Tribes of the Fort McDermitt Indian Reservation, Nevada and Oregon; Ione Band of Miwok Indians of California; Jackson Band of Miwok Indians (previously listed as the Jackson Rancheria of Me-Wuk Indians of California); Pyramid Lake Paiute Tribe of the Pyramid Lake Reservation, Nevada; Reno-Sparks Indian Colony, Nevada; Walker River Paiute Tribe of the Walker River Reservation, Nevada; and Yerington Paiute Tribe of the Yerington Colony & Campbell Ranch, Nevada. For a variety of reasons, they did not engage in consultation.

Two non-federally recognized groups, the Dunlap Band of Mono Indians and the Traditional Choinumni Tribe, participated in consultation. One non-federally recognized group, the

Wukchumni Tribe, was invited to consult, but did not participate.

Hereafter, all the Indian tribes and non-federally recognized Indian groups listed in this section are referred to as "The Consulted and Notified Tribes and Groups."

History and Description of the Remains

In 1977 and 1978, human remains representing, at minimum, one individual were removed from CA-FRE-622, in Fresno County, CA. Fresno City College instructor Don Wren excavated this site as part of the Helms Project. In January 2017, funded by a 2016 NAGPRA Consultation/Documentation grant awarded to the State Center Community College District, an osteological examination of the faunal collections was conducted to determine if human remains were present. That examination resulted in the identification of the human remains described in this inventory. The human remains represent one adult of indeterminate sex, represented by seven bone fragments. No known individuals were identified. The two associated funerary objects are one ochre fragment and one steatite fragment.

Determinations Made by the State Center Community College District—Fresno City College

Officials of the State Center Community College District—Fresno City College have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of one individual of Native American ancestry based on archeological context.
- Pursuant to 25 U.S.C. 3001(3)(A), the two objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Big Sandy Rancheria of Western Mono Indians of California (previously listed as the Big Sandy Rancheria of Mono Indians of California); Cold Springs Rancheria of Mono Indians of California; and the Table Mountain Rancheria (previously listed as the Table Mountain Rancheria of California), hereafter referred to as "The Tribes," based on geography and oral tradition.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian

organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request, to Mary Beth Miller, Interim Dean of Social Sciences, in care of Jill Minar, Ph.D., Fresno City College of The State Center Community College District, 1101 E University Avenue, Fresno, CA 93741, telephone (559) 442-8210, email jill.minar@fresnocitycollege.edu, by April 17, 2019. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to The Tribes may proceed.

The State Center Community College District—Fresno City College is responsible for notifying The Consulted and Notified Tribes and Groups that this notice has been published.

Dated: February 12, 2019.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2019-04918 Filed 3-15-19; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS-WASO-NAGPRA-NPS0027340; PPWOCRADNO-PCU00RP14.R50000]

Notice of Inventory Completion: Historical Society of Saginaw County, Inc., Saginaw County, MI

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Historical Society of Saginaw County, Inc. has completed an inventory of human remains, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is no cultural affiliation between the human remains and any present-day Indian Tribes or Native Hawaiian organizations. Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request to the Historical Society of Saginaw County, Inc. If no additional requestors come forward, transfer of control of the human remains to the Indian Tribes or Native Hawaiian organizations stated in this notice may proceed.

DATES: Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these

human remains should submit a written request with information in support of the request to the Historical Society of Saginaw County, Inc. at the address in this notice by April 17, 2019.

ADDRESSES: Jeffrey Sommer, Historical Society of Saginaw County, Inc., 500 Federal Avenue, Saginaw, MI 48607, telephone (989) 752-2861 Ext. 308, email jsommer@castlemuseum.org.

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains under the control of the Historical Society of Saginaw County, Inc., Saginaw County, MI. The human remains were removed from an unknown location in Michigan, but probably somewhere in Ogemaw County.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3) and 43 CFR 10.11(d). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the Historical Society of Saginaw County, Inc. professional staff in consultation with representatives of the Little Traverse Bay Bands of Odawa Indians, Michigan; Minnesota Chippewa Tribe, Minnesota (Six component reservations: Bois Forte Band (Nett Lake); Fond du Lac Band; Grand Portage Band; Leech Lake Band; Mille Lacs Band; White Earth Band); and the Saginaw Chippewa Indian Tribe of Michigan.

The Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation, Wisconsin; Bay Mills Indian Community, Michigan; Chippewa Cree Indians of the Rocky Boy's Reservation, Montana (previously listed as the Chippewa-Cree Indians of the Rocky Boy's Reservation, Montana; Grand Traverse Band of Ottawa and Chippewa Indians, Michigan; Keweenaw Bay Indian Community, Michigan; Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin; Lac du Flambeau Band of Lake Superior Chippewa Indians of the Lac du Flambeau Reservation of Wisconsin; Lac Vieux Desert Band of Lake Superior Chippewa Indians of Michigan; Minnesota Chippewa Tribe, Minnesota (Six component reservations:

Bois Forte Band (Nett Lake), Fond du Lac Band, Grand Portage Band, Leech Lake Band, Mille Lacs Band, White Earth Band); Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin; Red Lake Band of Chippewa Indians, Minnesota; Sault Ste. Marie Tribe of Chippewa Indians, Michigan; Sokaogon Chippewa Community, Wisconsin; St. Croix Chippewa Indians of Wisconsin; and the Turtle Mountain Band of Chippewa Indians of North Dakota, were invited to consult, but did not participate.

Hereafter, all Tribes listed in this section are referred to as "The Consulted and Invited Tribes."

History and Description of the Remains

Human remains representing, at minimum, one individual were removed from an undetermined location, but probably somewhere in Ogemaw County, MI. The human remains were found in the Ralph Stroebel collection and in association with materials from the Rifle River Earthworks (20OG1, 20OG2, 20OG3, and 20OG4). However, notes describing Stroebel's collection from the Earthworks and surrounding area do not list any bone materials. Furthermore, the dates listed in the notes do not match the dates written on some of the specimens. These discrepancies leave open the possibility that the human remains are not actually from the area around the earthworks. According to accompanying labels the individual was found in 1943. No known individuals were identified. No associated funerary objects are present.

The human remains are not listed specifically in museum records, but they may have been part of a large accession of historical and archeological material donated to the Historical Society of Saginaw County, Inc. in 1987. Most of the archeological material in the Stroebel collection is known to have been surface collected; the same is likely true for the human remains. However, no notes or other documentation describing the circumstances of discovery of the remains are known to exist. The fragmentary human remains are presumed to be Native American based solely on their probably having been removed from a site or sites known to have been occupied by Native Americans in prehistoric times.

Determinations Made by the Historical Society of Saginaw County, Inc.

Officials of the Historical Society of Saginaw County, Inc. have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice

are Native American based on their general archeological context.

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity cannot be reasonably traced between the Native American human remains and any present-day Indian Tribe.
- According to final judgments of the Indian Claims Commission or the Court of Federal Claims, the land from which the Native American human remains were removed is the aboriginal land of the Saginaw Chippewa Indian Tribe of Michigan.
- Treaties, Acts of Congress, or Executive Orders, indicate that the land from which the Native American human remains were removed is the aboriginal land of The Consulted and Invited Tribes.
- Pursuant to 43 CFR 10.11(c)(1), the disposition of the human remains may be to The Consulted and Invited Tribes.

Additional Requestors and Disposition

Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to Jeffrey Sommer, Historical Society of Saginaw County, Inc., 500 Federal Avenue, Saginaw, MI 48607, telephone (989) 752-2861 Ext. 308, email jsommer@castlemuseum.org, by April 17, 2019. After that date, if no additional requestors have come forward, transfer of control of the human remains to The Consulted and Invited Tribes may proceed.

The Historical Society of Saginaw County, Inc. is responsible for notifying The Consulted and Invited Tribes that this notice has been published.

Dated: February 12, 2019.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2019-04923 Filed 3-15-19; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS-WASO-NAGPRA-NPS0027331; PPWOCRADN0-PCU00RP14.R50000]

Notice of Inventory Completion: The State Center Community College District—Fresno City College, Fresno, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The State Center Community College District—Fresno City College has completed an inventory of human remains and associated funerary objects, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the human remains and associated funerary objects and present-day Indian Tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to the State Center Community College District—Fresno City College. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to the State Center Community College District—Fresno City College at the address in this notice by April 17, 2019.

ADDRESSES: Mary Beth Miller, Interim Dean of Social Sciences, in care of Jill Minar, Ph.D., Fresno City College of The State Center Community College District, 1101 East University Avenue, Fresno, CA 93741, telephone (559) 442-8210, email jill.minar@fresnocitycollege.edu.

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the State Center Community College District—Fresno City College, Fresno, CA. The human remains and associated funerary objects were removed from the Gyer site, Madera County, CA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The

National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the State Center Community College District—Fresno City College professional staff in consultation with representatives of the Big Sandy Rancheria of Western Mono Indians of California (previously listed as the Big Sandy Rancheria of Mono Indians of California); Buena Vista Rancheria of Me-Wuk Indians of California; Cold Springs Rancheria of Mono Indians of California; Middletown Rancheria of Pomo Indians of California; Northfork Rancheria of Mono Indians of California; Picayune Rancheria of Chukchansi Indians of California; Santa Rosa Indian Community of the Santa Rosa Rancheria, California; Shingle Springs Band of Miwok Indians, Shingle Springs Rancheria (Verona Tract), California; Table Mountain Rancheria (previously listed as the Table Mountain Rancheria of California); Tejon Indian Tribe; Tule River Indian Tribe of the Tule River Reservation, California; and Tuolumne Band of Me-Wuk Indians of the Tuolumne Rancheria of California.

The California Valley Miwok Tribe, California; Chicken Ranch Rancheria of Me-Wuk Indians of California; Fort McDermitt Paiute and Shoshone Tribes of the Fort McDermitt Indian Reservation, Nevada and Oregon; Ione Band of Miwok Indians of California; Jackson Band of Miwok Indians (previously listed as the Jackson Rancheria of Me-Wuk Indians of California); Pyramid Lake Paiute Tribe of the Pyramid Lake Reservation, Nevada; Reno-Sparks Indian Colony, Nevada; Walker River Paiute Tribe of the Walker River Reservation, Nevada; and the Yerington Paiute Tribe of the Yerington Colony & Campbell Ranch, Nevada were contacted and invited to consult, but did not participate.

Two non-federally recognized Indian groups, the Dunlap Band of Mono Indians and the Traditional Choinumni Tribe, participated in consultation. One non-federally recognized group, the Wukchumni Tribe, was invited to consult, but did not participate.

Hereafter, all the Indian tribes and non-federally recognized Indian groups listed in this section are referred to as “The Consulted and Notified Tribes and Groups.”

History and Description of the Remains

In 1973 and 1974, human remains representing, at minimum, two individuals were removed from the Gyer site, in Madera County, CA. The human remains belong to one adult of

indeterminate sex and one sub-adult of indeterminate sex. These individuals are represented by two teeth, two tooth fragments, and four bone fragments. No known individuals were identified. The 11 associated funerary objects are one lot of non-human bone fragments, one lot of obsidian flakes, six steatite fragments, two ochre fragments, and one quartz crystal fragment.

A Fresno City College field class excavated the Gyer site, under the supervision of Fresno City College Anthropology instructor Don Wren. In January 2017, during an osteological examination of the faunal collections to determine if human remains were present, the human remains described in this notice were identified.

Determinations Made by the State Center Community College District—Fresno City College

Officials of the State Center Community College District—Fresno City College have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of two individuals of Native American ancestry based on archeological context.

- Pursuant to 25 U.S.C. 3001(3)(A), the 11 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.

- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Northfork Rancheria of Mono Indians of California and the Picayune Rancheria of Chukchansi Indians of California, based on geographic information and oral tradition.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Mary Beth Miller, Interim Dean of Social Sciences, in care of Jill Minar, Ph.D., Fresno City College of The State Center Community College District, 1101 East University Avenue, Fresno, CA 93741, telephone (559) 442-8210, email jill.minar@fresnocitycollege.edu, by April 17, 2019.

After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to the Northfork Rancheria of Mono Indians of

California and the Picayune Rancheria of Chukchansi Indians of California may proceed.

The State Center Community College District—Fresno City College is responsible for notifying The Consulted and Notified Tribes and Groups that this notice has been published.

Dated: February 12, 2019.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2019-04914 Filed 3-15-19; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS-WASO-NAGPRA-NPS0027336; PPWOCRADN0-PCU00RP14.R50000]

Notice of Inventory Completion: Historical Society of Saginaw County, Inc., Saginaw County, MI

AGENCY: National Park Service, Interior.
ACTION: Notice.

SUMMARY: The Historical Society of Saginaw County, Inc. has completed an inventory of human remains, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is no cultural affiliation between the human remains and any present-day Indian Tribes or Native Hawaiian organizations. Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request to the Historical Society of Saginaw County, Inc. If no additional requestors come forward, transfer of control of the human remains to the Indian Tribes or Native Hawaiian organizations stated in this notice may proceed.

DATES: Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to the Historical Society of Saginaw County, Inc. at the address in this notice by April 17, 2019.

ADDRESSES: Jeffrey Sommer, Historical Society of Saginaw County, Inc., 500 Federal Avenue, Saginaw, MI 48607, telephone (989) 752-2861 Ext. 308, email jsommer@castlemuseum.org.

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory

of human remains under the control of the Historical Society of Saginaw County, Inc., Saginaw County, MI. The human remains were removed from 20SA510 (Linton Street site) Saginaw County, MI.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3) and 43 CFR 10.11(d). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the Historical Society of Saginaw County, Inc. professional staff in consultation with representatives of the Little Traverse Bay Bands of Odawa Indians, Michigan; Minnesota Chippewa Tribe, Minnesota (Six component reservations: Bois Forte Band (Nett Lake); Fond du Lac Band; Grand Portage Band; Leech Lake Band; Mille Lacs Band; White Earth Band); and the Saginaw Chippewa Indian Tribe of Michigan.

The Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation, Wisconsin; Bay Mills Indian Community, Michigan; Chippewa Cree Indians of the Rocky Boy's Reservation, Montana (previously listed as the Chippewa-Cree Indians of the Rocky Boy's Reservation, Montana); Grand Traverse Band of Ottawa and Chippewa Indians, Michigan; Keweenaw Bay Indian Community, Michigan; Kickapoo Traditional Tribe of Texas; Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas; Kickapoo Tribe of Oklahoma; Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin; Lac du Flambeau Band of Lake Superior Chippewa Indians of the Lac du Flambeau Reservation of Wisconsin; Lac Vieux Desert Band of Lake Superior Chippewa Indians of Michigan; Minnesota Chippewa Tribe, Minnesota (Six component reservations: Bois Forte Band (Nett Lake), Fond du Lac Band, Grand Portage Band, Leech Lake Band, Mille Lacs Band, White Earth Band); Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin; Red Lake Band of Chippewa Indians, Minnesota; Sac & Fox Nation of Missouri in Kansas and Nebraska; Sac & Fox Nation, Oklahoma; Sac & Fox Tribe of the Mississippi in Iowa; Sault Ste. Marie Tribe of Chippewa Indians, Michigan; Sokaogon Chippewa Community, Wisconsin; St. Croix

Chippewa Indians of Wisconsin; Tonawanda Band of Seneca (previously listed as the Tonawanda Band of Seneca Indians of New York); Turtle Mountain Band of Chippewa Indians of North Dakota; and the Wyandotte Nation were invited to consult but did not participate.

Hereafter, all Tribes listed in this section are referred to as "The Consulted and Invited Tribes."

History and Description of the Remains

In 1979, human remains representing, at minimum, seven individuals were removed from the Linton Street site (20SA510) in Saginaw County, MI. The human remains were discovered by workers doing routine maintenance on a gas line. An archeologist from the Saginaw Archaeological Commission removed the exposed remains. A sketch map of the site area and a newspaper article describing the circumstances of the discovery are the only known documentation of the recovery. The fragmentary human remains are determined to be Native American based on the presence of red ochre staining on some of the human remains and, in one case, dental morphology. No known individuals were identified. No associated funerary objects are present.

Determinations Made by the Historical Society of Saginaw County, Inc.

Officials of the Historical Society of Saginaw County, Inc. have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice are Native American based on the presence of red ochre staining on some of the human remains and, in one case, dental morphology.

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of seven individuals of Native American ancestry.

- Pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity cannot be reasonably traced between the Native American human remains and any present-day Indian Tribe.

- According to final judgments of the Indian Claims Commission or the Court of Federal Claims, the land from which the Native American human remains were removed is the aboriginal land of the Saginaw Chippewa Indian Tribe of Michigan.

- Treaties, Acts of Congress, or Executive Orders, indicate that the land from which the Native American human remains were removed is the aboriginal land of The Consulted and Invited Tribes.

- Pursuant to 43 CFR 10.11(c)(1), the disposition of the human remains may be to The Consulted and Invited Tribes.

Additional Requestors and Disposition

Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to Jeffrey Sommer, Historical Society of Saginaw County, Inc., 500 Federal Avenue, Saginaw, MI 48607, telephone (989) 752-2861 Ext. 308, email jsommer@castlemuseum.org, by April 17, 2019. After that date, if no additional requestors have come forward, transfer of control of the human remains to The Consulted and Invited Tribes may proceed.

The Historical Society of Saginaw County, Inc. is responsible for notifying The Consulted and Invited Tribes that this notice has been published.

Dated: February 12, 2019.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2019-04920 Filed 3-15-19; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS-WASO-NAGPRA-NPS0027328; PPWOCRADNO-PCU00RP14.R50000]

Notice of Inventory Completion: Marshall University, Huntington, WV

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: Marshall University has completed an inventory of human remains and associated funerary objects, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is no cultural affiliation between the human remains and associated funerary objects and any present-day Indian Tribes or Native Hawaiian organizations. Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to Marshall University. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the Indian Tribes or Native Hawaiian organizations stated in this notice may proceed.

DATES: Representatives of any Indian Tribe or Native Hawaiian organization

not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Marshall University at the address in this notice by April 17, 2019.

ADDRESSES: Jendonnae Houdyschell, Associate General Counsel, Marshall University, One John Marshall Drive, Huntington, WV 25755–1060, telephone (304) 696–6704, email houdyschell2@marshall.edu.

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of Marshall University, Huntington, WV. The human remains and associated funerary objects were removed from the Childers Site (46–MS–121), Mason County, WV, and an unknown location in southeast WV.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3) and 43 CFR 10.11(d). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by Marshall University professional staff in consultation with representatives of the Eastern Shawnee Tribe of Oklahoma; Saginaw Chippewa Indian Tribe of Michigan; and the United Keetoowah Band of Cherokee Indians in Oklahoma.

An invitation to consult was extended to the Absentee-Shawnee Tribe of Indians of Oklahoma; Bad River Band of Lake Superior Tribe of Chippewa Indians of the Bad River Reservation, Wisconsin; Bay Mills Indian Community, Michigan; Catawba Indian Nation (aka Catawba Tribe of South Carolina); Cayuga Nation; Cherokee Nation; Chickahominy Indian Tribe; Chickahominy Indian Tribe—Eastern Division; Chippewa Cree Indians of the Rocky Boy's Reservation, Montana (previously listed as the Chippewa-Cree Indians of the Rocky Boy's Reservation, Montana); Delaware Nation, Oklahoma; Delaware Tribe of Indians; Eastern Band of Cherokee Indians; Grand Traverse Band of Ottawa and Chippewa Indians, Michigan; Kaw Nation, Oklahoma;

Keweenaw Bay Indian Community, Michigan; Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin; Lac du Flambeau Band of Lake Superior Chippewa Indians of the Lac du Flambeau Reservation of Wisconsin; Lac Vieux Desert Band of Lake Superior Chippewa Indians of Michigan; Minnesota Chippewa Tribe, Minnesota (Six component reservations: Bois Forte Band (Nett Lake) (no invitation extended at request of Tribe); Fond du Lac Band; Grand Portage Band; Leech Lake Band; Mille Lacs Band; White Earth Band); Monacan Indian Nation; Nansemond Indian Tribe; Omaha Tribe of Nebraska; Oneida Nation (previously listed as the Oneida Tribe of Indians of Wisconsin); Oneida Indian Nation (previously listed as the Oneida Nation of New York); Onondaga Nation; Pamunkey Indian Tribe; Ponca Tribe of Indians of Oklahoma; Ponca Tribe of Nebraska; Rappahannock Tribe, Inc.; Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin; Red Lake Band of Chippewa Indians, Minnesota; Saint Regis Mohawk Tribe (previously listed as the St. Regis Band of Mohawk Indians of New York); Sault Ste. Marie Tribe of Chippewa Indians, Michigan; Seneca Nation of Indians (previously listed as the Seneca Nation of New York); Seneca-Cayuga Nation (previously listed as the Seneca-Cayuga Tribe of Oklahoma); Shawnee Tribe; Sokaogon Chippewa Community, Wisconsin; St. Croix Chippewa Indians of Wisconsin; Stockbridge Munsee Community, Wisconsin; The Osage Nation (previously listed as the Osage Tribe); The Quapaw Tribe of Indians; Tonawanda Band of Seneca (previously listed as the Tonawanda Band of Seneca Indians of New York); Tunica-Biloxi Indian Tribe; Turtle Mountain Band of Chippewa Indians of North Dakota; Tuscarora Nation; Upper Mattaponi Tribe; and the Wyandotte Nation.

Hereafter, all tribes listed in this section are referred to as "The Consulted and Notified Tribes."

History and Description of the Remains

In June and July 1979, human remains representing, at minimum, two individuals, were removed from the Childers site (46–MS–121), Mason County, WV, by the Marshall University Archaeological Field School as part of the environmental analysis for the Gallipolis Locks and Dam replacement project undertaken by the U.S. Army Corps of Engineers. A single box containing the human remains and cultural items was found in the Marshall University archeological collection in April 2018. No associated information could be located to indicate

how the human remains and cultural items came to the University, although it is believed to have been after the early 1990s. The human remains represent one infant of indeterminate sex, and one adult of indeterminate sex. No known individuals were identified. The three associated funerary objects are: One lot faunal material, one lot ceramics, and one lot lithics.

On an unknown date, human remains representing, at minimum, two individuals were removed from an unknown location in southeast WV. In April 2018, a box containing the human remains and cultural items was found in the Marshall University archeological collection. No associated information could be located to indicate where the human remains and cultural items were excavated, who excavated them, or how they came to the University. The human remains represent one sub-adult of indeterminate sex, and one child of indeterminate sex. No known individuals were identified. The six associated funerary objects are: One lot iron, one lot lithics, one lot ceramics, one lot faunal material, one lot charcoal, and one lot soil.

Determinations Made by the Marshall University

Officials of Marshall University have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice are Native American based on the preservation of the bones and features of skeletal elements.
- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of four individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the nine objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity cannot be reasonably traced between the Native American human remains and associated funerary objects and any present-day Indian Tribe.
- Treaties, Acts of Congress, or Executive Orders, indicate that the land from which the Native American human remains and associated funerary objects were removed is the aboriginal land of the Absentee-Shawnee Tribe of Indians of Oklahoma; Cayuga Nation; Cherokee Nation; Chickahominy Indian Tribe; Chickahominy Indian Tribe—Eastern Division; Delaware Nation, Oklahoma; Delaware Tribe of Indians; Eastern Band of Cherokee Indians; Eastern Shawnee

Tribe of Oklahoma; Monacan Indian Nation; Nansemond Indian Tribe; Oneida Nation (previously listed as the Oneida Tribe of Indians of Wisconsin); Oneida Indian Nation (previously listed as the Oneida Nation of New York); Onondaga Nation; Pamunkey Indian Tribe; Rappahannock Tribe, Inc.; Saint Regis Mohawk Tribe (previously listed as the St. Regis Band of Mohawk Indians of New York); Seneca Nation of Indians (previously listed as the Seneca Nation of New York); Seneca-Cayuga Nation (previously listed as the Seneca-Cayuga Tribe of Oklahoma); Shawnee Tribe; Stockbridge Munsee Community, Wisconsin; Tonawanda Band of Seneca (previously listed as the Tonawanda Band of Seneca Indians of New York); Tuscarora Nation; United Keetoowah Band of Cherokee Indians in Oklahoma; Upper Mattaponi Tribe; and the Wyandotte Nation, hereafter referred to as "The Tribes."

- Other authoritative governmental sources indicate that the land from which the Native American human remains and associated funerary objects were removed is the aboriginal land of the Bad River Band of Lake Superior Tribe of Chippewa Indians of the Bad River Reservation, Wisconsin; Bay Mills Indian Community, Michigan; Catawba Indian Nation (aka Catawba Tribe of South Carolina); Chippewa Cree Indians of the Rocky Boy's Reservation, Montana (previously listed as the Chippewa-Cree Indians of the Rocky Boy's Reservation, Montana); Grand Traverse Band of Ottawa and Chippewa Indians, Michigan; Kaw Nation, Oklahoma; Keweenaw Bay Indian Community, Michigan; Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin; Lac du Flambeau Band of Lake Superior Chippewa Indians of the Lac du Flambeau Reservation of Wisconsin; Lac Vieux Desert Band of Lake Superior Chippewa Indians of Michigan; Minnesota Chippewa Tribe, Minnesota (Six component reservations: Bois Forte Band (Nett Lake); Fond du Lac Band; Grand Portage Band; Leech Lake Band; Mille Lacs Band; White Earth Band); Omaha Tribe of Nebraska; Ponca Tribe of Indians of Oklahoma; Ponca Tribe of Nebraska; Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin; Red Lake Band of Chippewa Indians, Minnesota; Saginaw Chippewa Indian Tribe of Michigan; Saint Regis Mohawk Tribe (previously listed as the St. Regis Band of Mohawk Indians of New York); Sault Ste. Marie Tribe of Chippewa Indians, Michigan; Sokaogon Chippewa Community, Wisconsin; St. Croix Chippewa Indians of Wisconsin;

The Osage Nation (previously listed as the Osage Tribe); The Quapaw Tribe of Indians; Tunica-Biloxi Indian Tribe; and the Turtle Mountain Band of Chippewa Indians of North Dakota, hereafter referred to as "The Aboriginal Tribes."

- Pursuant to 43 CFR 10.11(c)(1), the disposition of the human remains and associated funerary objects may be to The Tribes and The Aboriginal Tribes.

Additional Requestors and Disposition

Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Jendonnae Houdyschell, Associate General Counsel, Marshall University, One John Marshall Drive, Huntington, WV 25755-1060, telephone (304) 696-6704, email houdyschell2@marshall.edu, by April 17, 2019. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to The Tribes and The Aboriginal Tribes may proceed.

Marshall University is responsible for notifying The Consulted and Notified Tribes, The Tribes, and The Aboriginal Tribes that this notice has been published.

Dated: February 12, 2019.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2019-04913 Filed 3-15-19; 8:45 am]

BILLING CODE 4312-52-P

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Food Processing Equipment, DN 3374*; the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing pursuant to the Commission's Rules of Practice and Procedure.

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205-2000. The

public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at <https://edis.usitc.gov>, and will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205-2000.

General information concerning the Commission may also be obtained by accessing its internet server at United States International Trade Commission (USITC) at <https://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at <https://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint and a submission pursuant to § 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of 3-A Sanitary Standards, Inc. on March 12, 2019. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain food processing equipment. The complaint names as respondents: Wenzhou QiMing Stainless Co., Ltd. of China; High MPa Valve Manufacturing Co., Ltd. of China; Wenzhou Sinco Steel Co, Ltd. of China; Wenzhou Kasin Valve Pipe Fitting Co., Ltd. of China; and Wenzhou Fuchuang Machinery Co., Ltd. of China. The complainant requests that the Commission issue a general exclusion order, or in the alternative, a limited exclusion order, and cease and desist orders.

Proposed respondents, other interested parties, and members of the public are invited to file comments, not to exceed five (5) pages in length, inclusive of attachments, on any public interest issues raised by the complaint or § 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) Identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) Identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) Indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) Explain how the requested remedial orders would impact United States consumers.

Written submissions on the public interest must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation. Any written submissions on other issues should be filed no later than by close of business nine calendar days after the date of publication of this notice in the **Federal Register**. Complainant may file a reply to any written submission no later than the date on which complainant's reply would be due under § 210.8(c)(2) of the Commission's Rules of Practice and Procedure (19 CFR 210.8(c)(2)).

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to § 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the docket number ("Docket No. 3374") in a prominent place on the cover page and/or the first page. (See Handbook for Electronic Filing Procedures, Electronic Filing Procedures¹). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in

confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. See 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. See 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel,² solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.³

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of §§ 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Issued: March 12, 2019.

Katherine Hiner,

Acting Secretary to the Commission.

[FR Doc. 2019–04948 Filed 3–15–19; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140–0009]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension With Change of a Currently Approved Collection; Application To Register as an Importer of U.S. Munitions Import List Articles—ATF Form 4587 (5330.4)

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will submit the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until May 17, 2019.

FOR FURTHER INFORMATION CONTACT: If you have additional comments, regarding 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: Desiree M. Dickinson, ATF Firearms and Explosives Imports Branch either by mail at 244 Needy Road, Martinsburg, WV 25405, or by email at desiree.dickinson@atf.gov.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of

¹ Handbook for Electronic Filing Procedures: https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf.

² All contract personnel will sign appropriate nondisclosure agreements.

³ Electronic Document Information System (EDIS): <https://edis.usitc.gov>.

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 (check justification or form 83):*

Extension, with change, of a currently approved collection.

2. *The Title of the Form/Collection:* Application to Register as an Importer of U.S. Munitions Import List Articles.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:*
Form number (if applicable): ATF Form 5487 (5330.4).

Component: Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Business or other for-profit.

Other (if applicable): Federal Government and State, Local, or Tribal Government.

Abstract: The purpose of this information collection is to allow ATF to determine if the registrant qualifies to engage in the business of importing a firearm or firearms, ammunition, and implements of war, and to facilitate the collection of registration fees.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 300 respondents will utilize the form, and it will take each respondent approximately 30 minutes to complete their responses to this form.

6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 150, which is equal to 300 (# of respondents) * one (# of times per response) * .5 (30 minutes).

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 3E.405A, Washington, DC 20530.

Dated: March 13, 2019.

Melody Braswell,
Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2019-04967 Filed 3-15-19; 8:45 am]

BILLING CODE 4410-FY-P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140-0077]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension Without Change of a Currently Approved Collection; Report of Stolen or Lost ATF Form 5400.30, Intrastate Purchase Explosive Coupon

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will submit the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until May 17, 2019.

FOR FURTHER INFORMATION CONTACT: If you have additional comments, regarding 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: Jason Lynch, United States Bomb Data Center (USBDC) either by mail at 3750 Corporal Road, Redstone Arsenal, AL 35898, by email at Jason.Lynch@atf.gov, or by telephone at 256-261-7588.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of

appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

1. *Type of Information Collection (check justification or form 83):*

Extension, without change, of a currently approved collection.

2. *The Title of the Form/Collection:* Report of Stolen or Lost ATF Form 5400.30, Intrastate Purchase Explosive Coupon.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:*

Form number (if applicable): ATF Form 5400.30.

Component: Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Business or other for-profit.

Other (if applicable): Individuals or households.

Abstract: When any Intrastate Purchase of Explosives Coupon (ATF Form 5400.30 is stolen, lost, or destroyed, the person losing possession will, upon discovery of the theft, loss, or destruction, immediately, but in all cases before 24 hours have elapsed since discovery, report the matter to the Director by telephoning 1-888-ATF-BOMB.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 10 respondents will utilize this information collection once a year and it will take each respondent approximately 20 minutes to complete their responses.

6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 3 hours which is equal to 10 (# of respondents) * 1 (# of responses per respondent) * .333333 (20 mins).

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 3E.405A, Washington, DC 20530.

Dated: March 13, 2019.

Melody Braswell,

*Department Clearance Officer for PRA, U.S.
Department of Justice.*

[FR Doc. 2019-04968 Filed 3-15-19; 8:45 am]

BILLING CODE 4410-FY-P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Joel A. Smithers, D.O.; Decision and Order

On November 15, 2018, the Assistant Administrator, Diversion Control Division, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Joel A. Smithers, D.O. (Registrant), of Martinsville, Virginia. The Show Cause Order proposed the revocation of Registrant's DEA Certificate of Registration No. FS4850459 on the ground that he "has no state authority to handle controlled substances." Government Exhibit (GX) 2 (Order to Show Cause) to Government's Request for Final Agency Action (RFAA), at 1 (citing 21 U.S.C. 824(a)(3)). For the same reason, the Order also proposed the denial of "any applications for renewal or modification of such registration and any applications for any other DEA registrations." *Id.*

With respect to the Agency's jurisdiction, the Show Cause Order alleged that Registrant is the holder of Certificate of Registration No. FS4850459, pursuant to which he is authorized to dispense controlled substances as a practitioner in schedules II through V, at the registered address of 445 Commonwealth Blvd. East, Suite A, Martinsville, Virginia. *Id.* The Order also alleged that this registration does not expire until February 29, 2020. *Id.*

Regarding the substantive grounds for the proceeding, the Show Cause Order alleged that on May 10, 2018, the Virginia Board of Medicine issued "an Order of Summary Suspension" that suspended Registrant's Virginia osteopathic medical license. *Id.* The Show Cause Order alleged that, as a result, he is "currently without authority to handle controlled substances in the Commonwealth of Virginia, the [S]tate in which [he is] registered with the DEA." *Id.* Based on his "lack of authority to handle controlled substances in the Commonwealth of Virginia," the Order asserted that "DEA must revoke" his registration. *Id.* at 1-2 (citing 21 U.S.C. 824(a)(3); 21 CFR 1301.73(b)). *Id.*

The Show Cause Order notified Registrant of (1) his right to request a

hearing on the allegations or to submit a written statement in lieu of a hearing, (2) the procedure for electing either option, and (3) the consequence for failing to elect either option. *Id.* at 2. (citing 21 CFR 1301.43). The Order also notified Registrant of his right to submit a corrective action plan. *Id.* at 2-3 (citing 21 U.S.C. 824(c)(2)(C)).

With respect to service, a Task Force Officer (TFO) in the Roanoke Resident Office of DEA's Washington Field Division executed a Declaration on February 4, 2019, stating that she "personally served Registrant with the" Show Cause Order on November 20, 2018. GX 4 (Declaration of TFO) to RFAA, at 1.

On February 5, 2019, the Government forwarded its Request for Final Agency Action and evidentiary record to my Office. In its Request, the Government represents that more than 30 days have passed since Registrant had been served with the Show Cause Order and that "Registrant has not requested a hearing and has not otherwise corresponded or communicated with DEA regarding the Order served on him." RFAA, at 1. Based on the Government's representation and the record, I find that more than 30 days have passed since the Show Cause Order was served on Registrant, and he has neither requested a hearing nor submitted a written statement in lieu of a hearing. *See* 21 CFR 1301.43(d). Accordingly, I find that Registrant has waived his right to a hearing or to submit a written statement and issue this Decision and Order based on relevant evidence submitted by the Government and the findings below. *See id.* I make the following findings.

Findings of Fact

Registrant is the holder of DEA Certificate of Registration No. FS4850459 pursuant to which he is authorized to dispense controlled substances in schedules II through V as a practitioner at the registered address of 445 Commonwealth Blvd. East, Suite A, Martinsville, Virginia. GX 1 (Certification of Registration Status) to RFAA, at 1. This registration does not expire until February 29, 2020. *Id.*

In addition, I take official notice of an "Order of Summary Suspension" (Suspension Order) on the Virginia Board of Medicine's website,¹ which

¹ *See* http://www.dhp.virginia.gov/Notices/Medicine/0102204264/0102204264_Order05102018.pdf. Under the Administrative Procedure Act (APA), an agency "may take official notice of facts at any stage in a proceeding—even in the final decision." U.S. Dept. of Justice, *Attorney General's Manual on the Administrative Procedure Act* 80 (1947) (Wm. W. Gaunt & Sons, Inc., Reprint 1979). In accordance with the APA

states that on May 10, 2018, the Executive Director of the Virginia Board of Medicine entered an order that Registrant's Virginia license to practice osteopathic medicine "is SUSPENDED." Suspension Order, at 1. In its Suspension Order, the Virginia "Board conclude[d] that a substantial danger to public health or safety warrants this action." *Id.* The Suspension Order also stated that it would apply to Registrant's "multistate licensure privilege, if any, to practice osteopathic medicine in the Commonwealth of Virginia." *Id.* Finally, the Suspension Order ordered "that a hearing be convened within a reasonable time of the date of entry of this Order to receive and act upon evidence in this matter." *Id.*

I also take official notice of the results of a search of the Virginia Board of Medicine's license verification web page showing that, as of the date of this Decision, Registrant's Virginia medical license remains suspended.² There is no evidence in the record that the Virginia Board of Medicine ever issued a superseding order or decision ending the suspension of Registrant's medical license. Accordingly, I find that Registrant currently does not possess a license to practice medicine in the Commonwealth of Virginia, the State in which he is registered with the DEA.

Discussion

Pursuant to 21 U.S.C. 824(a)(3), the Attorney General is authorized to suspend or revoke a registration issued under section 823 of the Controlled Substances Act (CSA), "upon a finding that the registrant . . . has had his State license . . . suspended [or] revoked . . . by competent State authority and is no longer authorized by State law to engage in the . . . dispensing of controlled substances." Also, DEA has long held that the possession of authority to dispense controlled substances under the laws of the State in which a practitioner engages in professional practice is a fundamental condition for obtaining and maintaining a practitioner's registration. *See, e.g., James L. Hooper*, 76 FR 71371 (2011), *pet. for rev. denied*, 481 Fed. Appx. 826

and DEA's regulations, Registrant is "entitled on timely request to an opportunity to show to the contrary." 5 U.S.C. 556(e); *see also* 21 CFR 1316.59(e). To allow Registrant the opportunity to refute the facts of which I take official notice, Registrant may file a motion for reconsideration within 15 calendar days of service of this order which shall commence on the date this order is mailed. The Government also attached an identical (but unverified) copy of the Suspension Order as an exhibit to its Request for Final Agency Action. GX 3 (Suspension Order) to RFAA.

² *See* <https://dhp.virginiainteractive.org/Lookup/Detail/0102204264>. I take official notice pursuant to the authority set forth *supra* in footnote 1.

(4th Cir. 2012); *see also Frederick Marsh Blanton*, 43 FR 27616 (1978) (“State authorization to dispense or otherwise handle controlled substances is a prerequisite to the issuance and maintenance of a Federal controlled substances registration.”).

This rule derives from the text of two provisions of the CSA. First, Congress defined “the term ‘practitioner’ [to] mean[] a . . . physician . . . or other person licensed, registered or otherwise permitted, by . . . the jurisdiction in which he practices . . . to distribute, dispense, [or] administer . . . a controlled substance in the course of professional practice.” 21 U.S.C. 802(21). Second, in setting the requirements for obtaining a practitioner’s registration, Congress directed that “[t]he Attorney General shall register practitioners . . . if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices.” 21 U.S.C. 823(f). Because Congress has clearly mandated that a practitioner possess state authority in order to be deemed a practitioner under the Act, DEA has long held that revocation of a practitioner’s registration is the appropriate sanction whenever he is no longer authorized to dispense controlled substances under the laws of the State in which he engages in professional practice. *See, e.g., Calvin Ramsey*, 76 FR 20034, 20036 (2011); *Sheran Arden Yeates, M.D.*, 71 FR 39130, 39131 (2006); *Dominick A. Ricci*, 58 FR 51104, 51105 (1993); *Bobby Watts*, 53 FR 11919, 11920 (1988); *Blanton*, 43 FR 27616 (1978).

Moreover, because “the controlling question” in a proceeding brought under 21 U.S.C. 824(a)(3) is whether the holder of a practitioner’s registration “is currently authorized to handle controlled substances in the [S]tate,” *Hooper*, 76 FR at 71371 (quoting *Anne Lazar Thorn*, 62 FR 12847, 12848 (1997)), the Agency has also long held that revocation is warranted even where a practitioner has lost his state authority by virtue of the State’s use of summary process and the State has yet to provide a hearing to challenge the suspension. *Bourne Pharmacy*, 72 FR 18273, 18274 (2007); *Wingfield Drugs*, 52 FR 27070, 27071 (1987). Thus, it is of no consequence that the Virginia Board of Medicine summarily suspended Registrant’s state medical license.

What is consequential is my finding that Registrant is no longer currently authorized to dispense controlled substances in the Commonwealth of Virginia, the State in which he is registered. Specifically, the Virginia Board of Medicine’s decision to suspend

Registrant’s medical license also means that Registrant is currently without authority to dispense controlled substances under the laws of Virginia. *See, e.g., Va. Code Ann. §§ 54.1–2409.1* (2017) (felony to prescribe controlled substances without a current valid license); 54.1–2900 (2017); 54.1–3401 (2016). Accordingly, Registrant is not entitled to maintain his DEA registration, and I will therefore order that his registration be revoked.

Order

Pursuant to the authority vested in me by 21 U.S.C. 823(f) and 824(a), as well as 28 CFR 0.100(b), I order that DEA Certificate of Registration No. FS4850459, issued to Joel A. Smithers, D.O., be, and it hereby is, revoked. I further order that any pending application of Joel A. Smithers to renew or modify the above registration, or any pending application of Joel A. Smithers for any other DEA registration in the Commonwealth of Virginia, be, and it hereby is, denied. This Order is effective April 17, 2019.

Dated: February 27, 2019.

Uttam Dhillon,

Acting Administrator.

[FR Doc. 2019–05013 Filed 3–15–19; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Application: Sharp (Bethlehem), LLC

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before April 17, 2019. Such persons may also file a written request for a hearing on the application on or before April 17, 2019.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DPW, 8701 Morrisette Drive, Springfield, Virginia 22152. All requests for a hearing must be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrisette Drive, Springfield, Virginia 22152. All requests for a hearing should also be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrisette Drive, Springfield, Virginia 22152; and

(2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrisette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: The Attorney General has delegated his authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, dispensers, importers, and exporters of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Assistant Administrator of the DEA Diversion Control Division (“Assistant Administrator”) pursuant to section 7 of 28 CFR part 0, appendix to subpart R.

In accordance with 21 CFR 1301.34(a), this is notice that on January 04, 2019, Sharp (Bethlehem), LLC, 2400 Baglyos Circle, Bethlehem, Pennsylvania 18020 applied to be registered as an importer of the following basic classes of controlled substances:

Controlled substance	Drug code	Schedule
Gamma Hydroxybutyric Acid	2010	I
3,4-Methylenedioxymethamphetamine.	7405	I
Psilocybin	7437	I

The company plans to import the listed controlled substances for clinical trials. Approval of permit applications will occur only when the registrant’s activity is consistent with what is authorized under to 21 U.S.C. 952(a)(2). Authorization will not extend to the import of FDA approved or non-approved finished dosage forms for commercial sale.

Dated: March 5, 2019.

John J. Martin,

Assistant Administrator.

[FR Doc. 2019–05000 Filed 3–15–19; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

William A. Sanpablo, M.D.; Decision and Order

On December 3, 2018, the Assistant Administrator, Diversion Control Division, Drug Enforcement Administration (DEA), issued an Order to Show Cause to William A. Sanpablo,

M.D. (Registrant), of Philippi, West Virginia. The Show Cause Order proposed the revocation of Registrant's DEA Certificate of Registration No. AS8766480 on the ground that he "ha[s] no state authority to handle controlled substances." Government Exhibit (GX) 2 (Order to Show Cause) to Government's Request for Final Agency Action (RFAA), at 1 (citing 21 U.S.C. 824(a)(3)). For the same reason, the Order also proposed the denial of "any applications for renewal or modification of such registration and any applications for any other DEA registrations." *Id.*

With respect to the Agency's jurisdiction, the Show Cause Order alleged that Registrant is the holder of Certificate of Registration No. AS8766480, pursuant to which he is authorized to dispense controlled substances as a practitioner in schedules II through V, at the registered address of 2 Healthcare Drive, Philippi, West Virginia. *Id.* The Order also alleged that this registration does not expire until February 29, 2020. *Id.*

Regarding the substantive grounds for the proceeding, the Show Cause Order alleged that on October 10, 2018, Registrant "entered into a Consent Order with the West Virginia Board of Medicine permanently surrendering [his] license to practice medicine and surgery in West Virginia." *Id.* The Show Cause Order alleged that, as a result, he is "currently without authority to handle controlled substances in the State of West Virginia, the [S]tate in which [he is] registered with the DEA." *Id.* Based on his "lack of authority to handle controlled substances in the State of West Virginia," the Order asserted that "DEA must revoke" his registration. *Id.* at 2 (citing 21 U.S.C. 824(a)(3); 21 CFR 1301.37(b)).

The Show Cause Order notified Registrant of (1) his right to request a hearing on the allegations or to submit a written statement in lieu of a hearing, (2) the procedure for electing either option, and (3) the consequence for failing to elect either option. *Id.* (citing 21 CFR 1301.43). The Order also notified Registrant of his right to submit a corrective action plan. *Id.* at 2–3 (citing 21 U.S.C. 824(c)(2)(C)).

With respect to service, a Diversion Investigator (DI) in the Clarksburg Resident Office of DEA's Louisville Field Division executed a Declaration on February 6, 2019, stating that he "personally served Registrant with the [Show Cause Order]" on December 6, 2018. GX 4 (Declaration of DI) to RFAA, at 1.

On February 13, 2019, the Government forwarded its Request for

Final Agency Action and evidentiary record to my Office. In its Request, the Government represents that more than 30 days have passed since Registrant had been served with the Show Cause Order and that "Registrant has not requested a hearing and has not otherwise corresponded or communicated with DEA regarding the Order served on him." RFAA, at 1. Based on the Government's representation and the record, I find that more than 30 days have passed since the Show Cause Order was served on Registrant, and he has neither requested a hearing nor submitted a written statement in lieu of a hearing. *See* 21 CFR 1301.43(d). Accordingly, I find that Registrant has waived his right to a hearing or to submit a written statement and issue this Decision and Order based on relevant evidence submitted by the Government and the findings below. *See id.* I make the following findings.

Findings of Fact

Registrant is the holder of DEA Certificate of Registration No. AS8766480 pursuant to which he is authorized to dispense controlled substances in schedules II through V as a practitioner at the registered address of 2 Healthcare Drive, Philippi, West Virginia. GX 1 (Certification of Registration Status) to RFAA, at 1. This registration does not expire until February 29, 2020. *Id.*

On October 10, 2018, the West Virginia Board of Medicine entered into a "Consent Order" with Registrant. GX 3 to RFAA, at 69–76. According to the Consent Order, Registrant "acknowledges that he is unable to practice medicine and surgery with reasonable skill and safety due to physical or mental impairment, including deterioration through the aging process and loss of motor skills and that he is ready to retire from the practice of medicine." *Id.* at 70. Registrant agreed to have his "license to practice medicine and surgery in West Virginia . . . PERMANENTLY SURRENDERED to the Board." *Id.* at 74. As a result, he further agreed that he "may not practice medicine and surgery in West Virginia" and that he is "permanently ineligible for licensure by the West Virginia Board of Medicine." *Id.*¹

¹ The DEA registration is under the name "William A. Sanpablo," but the West Virginia Board of Medicine's Consent Order in the administrative record refers to the state registrant as "William Amaro San Pablo." Compare GX 1 to RFAA, at 1 with GX 3 to RFAA, at 1, 70. After reviewing the Agency's registration records, of which I take official notice, and comparing them to the certified copies of the West Virginia Board's

In addition, I take official notice of the results of a search of the West Virginia Board of Medicine's license verification web page showing that, as of the date of this Decision, Registrant's West Virginia medical license remains "[s]urrendered." ² Accordingly, I find that Registrant currently does not possess a license to practice medicine in the State of West Virginia, the State in which he is registered with the DEA.

Discussion

Pursuant to 21 U.S.C. 824(a)(3), the Attorney General is authorized to suspend or revoke a registration issued under section 823 of the Controlled Substances Act (CSA), "upon a finding that the registrant . . . has had his State license . . . suspended [or] revoked . . . by competent State authority and is no longer authorized by State law to engage in the . . . dispensing of controlled substances." Also, DEA has long held that the possession of authority to dispense controlled substances under the laws of the State in which a practitioner engages in professional practice is a fundamental condition for obtaining and maintaining a practitioner's registration. *See, e.g., James L. Hooper*, 76 FR 71371 (2011), *pet. for rev. denied*, 481 Fed. Appx. 826 (4th Cir. 2012); *see also Frederick Marsh Blanton*, 43 FR 27616 (1978) ("State authorization to dispense or otherwise handle controlled substances is a prerequisite to the issuance and maintenance of a Federal controlled substances registration.").

documents included in the administrative record, I find that this discrepancy appears to be a clerical error for at least two independent reasons. First, the "E-Signature" for the DEA registration in this case is by "William A. San Pablo," which is consistent with the name in the aforementioned West Virginia Board of Medicine records in the case. Second, the Agency's registration records state that Registrant's West Virginia medical license number is "11963," which is identical to the West Virginia medical license number set forth in the Consent Order for William Amaro San Pablo. *E.g.*, GX 3 to RFAA, at 70. Thus, I find that the West Virginia Board's Consent Order's reference to "William Amaro San Pablo" and the DEA registration's reference to "William A. Sanpablo" are to the same practitioner.

Under the Administrative Procedure Act (APA), an agency "may take official notice of facts at any stage in a proceeding—even in the final decision." U.S. Dept. of Justice, *Attorney General's Manual on the Administrative Procedure Act* 80 (1947) (Wm. W. Gaunt & Sons, Inc., Reprint 1979). In accordance with the APA and DEA's regulations, Registrant is "entitled on timely request to an opportunity to show to the contrary." 5 U.S.C. 556(e); *see also* 21 CFR 1316.59(e). To allow Registrant the opportunity to refute the facts of which I take official notice, Registrant may file a motion for reconsideration within 15 calendar days of service of this order which shall commence on the date this order is mailed.

² *See* <https://wvbom.wv.gov/public/search/details.asp>. I take official notice of this fact pursuant to the same authority set forth *supra* in footnote 1.

This rule derives from the text of two provisions of the CSA. First, Congress defined “the term ‘practitioner’ [to] mean[] a . . . physician . . . or other person licensed, registered or otherwise permitted, by . . . the jurisdiction in which he practices . . . to distribute, dispense, [or] administer . . . a controlled substance in the course of professional practice.” 21 U.S.C. 802(21). Second, in setting the requirements for obtaining a practitioner’s registration, Congress directed that “[t]he Attorney General shall register practitioners . . . if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices.” 21 U.S.C. 823(f). Because Congress has clearly mandated that a practitioner possess state authority in order to be deemed a practitioner under the Act, DEA has long held that revocation of a practitioner’s registration is the appropriate sanction whenever he is no longer authorized to dispense controlled substances under the laws of the State in which he engages in professional practice. *See, e.g., Calvin Ramsey*, 76 FR 20034, 20036 (2011); *Sheran Arden Yeates, M.D.*, 71 FR 39130, 39131 (2006); *Dominick A. Ricci*, 58 FR 51104, 51105 (1993); *Bobby Watts*, 53 FR 11919, 11920 (1988); *Blanton*, 43 FR 27616 (1978).

Here, there is no dispute over the material fact that Registrant surrendered his West Virginia medical license and is thus no longer authorized to dispense controlled substances in West Virginia, the State in which he is registered. *See Richard Jay Blackburn, D.O.*, 82 FR 18669, 18672 (2017). Accordingly, Registrant is not entitled to maintain his DEA registration, and I will therefore order that his registration be revoked.

Order

Pursuant to the authority vested in me by 21 U.S.C. 823(f) and 824(a), as well as 28 CFR 0.100(b), I order that DEA Certificate of Registration No. AS8766480, issued to William A. Sanpablo, M.D., be, and it hereby is, revoked. I further order that any pending application of William A. Sanpablo to renew or modify the above registration, or any pending application of William A. Sanpablo for any other DEA registration in the State of West Virginia, be, and it hereby is, denied. This Order is effective April 17, 2019.

Dated: February 27, 2019.

Uttam Dhillon,

Acting Administrator.

[FR Doc. 2019-05014 Filed 3-15-19; 8:45 am]

BILLING CODE 4410-09-P

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Comment Request; Higher Education Research and Development Survey

AGENCY: National Science Foundation.

ACTION: Notice.

SUMMARY: The National Science Foundation (NSF) is announcing plans to renew this collection. In accordance with the requirements of the Paperwork Reduction Act of 1995, we are providing opportunity for public comment on this action. After obtaining and considering public comment, NSF will prepare the submission requesting Office of Management and Budget (OMB) clearance of this collection for no longer than 3 years.

DATES: Written comments on this notice must be received by May 17, 2019 to be assured consideration. Comments received after that date will be considered to the extent practicable. Send comments to address below.

FOR FURTHER INFORMATION CONTACT:

Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 2415 Eisenhower Avenue, Suite W18200, Alexandria, Virginia 22314; telephone (703) 292-7556; or send email to splimpto@nsf.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including Federal holidays).

SUPPLEMENTARY INFORMATION:

Title of Collection: Higher Education Research and Development Survey.

OMB Approval Number: 3145-0100.

Expiration Date of Current Approval: September 30, 2019.

Type of Request: Intent to Extend a Current Information Collection.

Abstract: Established within NSF by the America COMPETES Reauthorization Act of 2010 § 505, codified in the NSF Act of 1950, as amended, NCSES—one of 13 principal federal statistical agencies—serves as a central Federal clearinghouse for the collection, interpretation, analysis, and dissemination of objective data on science, engineering, technology, and research and development for use by practitioners, researchers, policymakers, and the public.

The Higher Education Research and Development (R&D) Survey (formerly known as the Survey of R&D Expenditures at Universities and Colleges) originated in fiscal year (FY) 1954 and has been conducted annually since FY 1972. The survey represents

one facet of the research and development component of NCSES’s statistical program, which also includes R&D surveys on the business, federal government, higher education, state government, and nonprofit sectors.

Use of the Information: The proposed project will continue the annual survey cycle for three years. The Higher Education R&D Survey will provide continuity of statistics on R&D expenditures by source of funding, type of R&D (basic research, applied research, or experimental development), and field of research, with separate data requested on research equipment by field. Further breakdowns are collected on funds passed through to subrecipients and funds received as a subrecipient, and on R&D expenditures by field from specific federal agency sources. As of FY 2010, the survey also requests total R&D expenditures funded from foreign sources, R&D within an institution’s medical school, clinical trial expenditures, R&D by type of funding mechanism (contracts vs. grants), and R&D by cost category (salaries, equipment, software, etc.). The survey also requests headcounts of principal investigators and other personnel paid from R&D funds.

Data are published in NCSES’s annual publication series *Higher Education Research and Development*, available on the web at <http://www.nsf.gov/statistics/srvyherd/>.

Expected respondents: The FY 2019 Higher Education R&D Survey will be administered to approximately 650 institutions. In addition, a shorter version of the survey asking for R&D expenditures by source of funding and broad field will be sent to approximately 300 institutions spending under \$1 million on R&D in their previous fiscal year. Finally, a survey requesting R&D expenditures by source of funds, cost categories, and type of R&D will be administered to the 42 Federally Funded Research and Development Centers.

Estimate of burden: The survey is a fully automated web data collection effort and is handled primarily by administrators in university sponsored programs and accounting offices. To minimize burden, institutions are provided with an abundance of guidance and resources on the web and are able to respond via downloadable spreadsheet if desired. Each institution’s record is pre-loaded with the 2 previous years of comparable data that facilitate editing and trend checking. Response to this voluntary survey has exceeded 95 percent each year.

The average burden estimate is 54 hours for the approximately 650

institutions reporting at least \$1 million in R&D expenditures, 8 hours for the approximately 300 institutions reporting less than \$1 million, and 11 hours for the 42 organizations completing the FFRDC survey. The total calculated burden across all forms is 37,962 hours.

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 of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information on respondents, including through the use of automated collection techniques or other forms of information technology; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Dated: March 13, 2019.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2019-04980 Filed 3-15-19; 8:45 am]

BILLING CODE 7555-01-P

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Comment Request; Survey of Science and Engineering Research Facilities

AGENCY: National Science Foundation.

ACTION: Notice.

SUMMARY: The National Science Foundation (NSF) is announcing plans to reinstate this collection. In accordance with the requirements of the Paperwork Reduction Act of 1995, we are providing opportunity for public comment on this action. After obtaining and considering public comment, NSF will prepare the submission requesting Office of Management and Budget (OMB) clearance of this collection for no longer than 3 years.

DATES: Written comments on this notice must be received by May 17, 2019 to be assured consideration. Comments received after that date will be considered to the extent practicable. Send comments to address below.

FOR FURTHER INFORMATION CONTACT:

Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 2415 Eisenhower Avenue, Suite W18200, Alexandria, Virginia 22314;

telephone (703) 292-7556; or send email to splimpto@nsf.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including Federal holidays).

SUPPLEMENTARY INFORMATION:

Title of Collection: Survey of Science and Engineering Research Facilities.

OMB Control Number: 3145-0101.

Expiration Date of Current Approval: August 31, 2018.

Type of Request: Intent to seek approval to reinstate an information collection for three years.

Abstract: Established within NSF by the America COMPETES Reauthorization Act of 2010 § 505, codified in the NSF Act of 1950, as amended, NCSES—one of 13 principal federal statistical agencies—serves as a central Federal clearinghouse for the collection, interpretation, analysis, and dissemination of objective data on science, engineering, technology, and research and development for use by practitioners, researchers, policymakers, and the public.

The Survey of Science and Engineering Research Facilities is a Congressionally mandated (Pub. L. 99-159), biennial survey that has been conducted since 1986. The survey collects data on the amount, condition, and costs of the physical facilities used to conduct science and engineering research. It was expected by Congress that this survey would provide the data necessary to describe the status and needs of science and engineering research facilities and to formulate appropriate solutions to documented needs. During the FY 2015 and FY 2017 survey cycles, data were collected from a population of approximately 575 research-performing colleges. Data are collected through a Web-based interface, although institutions have the option of printing and completing a PDF that can be sent by mail.

Use of the Information: The proposed project will continue the biennial survey for two cycles: FY 2019 and FY 2021. The Survey of Science and Engineering Research Facilities will provide continuity of statistics on the status of scientific and engineering research facilities and capabilities. Statistics on the square footage of R&D space available, the condition of R&D space, and the costs for new construction, repairs, and renovation of R&D space at higher education institutions by S&E field are produced from the survey. The sources of funding for new construction and repair and

renovation projects are also published. The information can be used by Federal policy makers, planners, and budget analysts in making policy decisions, as well as by institutional academic officials, the scientific/engineering establishment, and state agencies and legislatures that fund universities.

Data are published in NCSES's biennial publication series *Survey of Science and Engineering Research Facilities*, available on the web at <http://www.nsf.gov/statistics/srvyfacilities/>.

Expected Respondents: The Facilities Survey is a census of institutions that performed at least \$1 million in separately accounted for science and engineering research and development in the previous fiscal year.

In the most recent FY 2017 Facilities Survey, a census of 575 academic institutions was conducted. The sampling frame used for the survey was the FY 2016 Higher Education Research and Development Survey conducted by the National Center for Science and Engineering Statistics.

Estimate of Burden: The Facilities Survey will be sent to approximately 600 academic institutions for the FY 2019 and FY 2021 data collection cycles. Response to this voluntary survey is typically 97 percent each cycle. The average burden estimate is 19 hours per academic institution based on completion time estimates provided by all survey participants in the FY 2013 survey. This would result in an estimated burden of 11,400 hours per cycle.

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 of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information on respondents, including through the use of automated collection techniques or other forms of information technology; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Dated: March 13, 2019.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2019-04976 Filed 3-15-19; 8:45 am]

BILLING CODE 7555-01-P

NUCLEAR REGULATORY COMMISSION

Meeting of the Advisory Committee on Reactor Safeguards (ACRS) Subcommittee on NuScale

The ACRS Subcommittee on NuScale will hold a meeting on March 20, 2019, at U.S. Nuclear Regulatory Commission, Two White Flint North, Conference Room T3D50, 11545 Rockville Pike, Rockville, MD 20852.

The meeting will be open to public attendance with the exception of portions that may be closed to protect information that is proprietary pursuant to 5 U.S.C. 552b(c)(4). The agenda for the subject meeting shall be as follows:

Wednesday, March 20, 2019–8:30 a.m. Until 12:00 p.m.

The Subcommittee will review the staff's evaluation of Chapters 9, "Auxiliary Systems," and Chapter 16, "Technical Specifications." The Subcommittee will hear presentations by and hold discussions with the NRC staff, NuScale and other interested persons regarding this matter. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the Full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official (DFO), Michael Snodderly (Telephone 301–415–2241 or Email: Michael.Snodderly@nrc.gov) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Thirty-five hard copies of each presentation or handout should be provided to the DFO thirty minutes before the meeting. In addition, one electronic copy of each presentation should be emailed to the DFO one day before the meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the DFO with a CD containing each presentation at least thirty minutes before the meeting. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. The public bridgeline number for the meeting is 866–822–3032, passcode 8272423. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on December 7, 2018 (83 FR 26506).

Detailed meeting agendas and meeting transcripts are available on the NRC website at <http://www.nrc.gov/reading-rm/doc-collections/acrs>. Information regarding topics to be discussed,

changes to the agenda, whether the meeting has been canceled or rescheduled, and the time allotted to present oral statements can be obtained from the website cited above or by contacting the identified DFO. Moreover, in view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with these references if such rescheduling would result in a major inconvenience.

If attending this meeting, please enter through the One White Flint North building, 11555 Rockville Pike, Rockville, Maryland. After registering with Security, please contact Paula Dorm (Telephone 301–415–7799) to be escorted to the meeting room.

Dated: March 13, 2019.

Lawrence Burkhardt,

Chief, Technical Support Branch, Advisory Committee on Reactor Safeguards.

[FR Doc. 2019–05024 Filed 3–15–19; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2019–0073]

Agency Activities in Response to a Portion of the Nuclear Energy Innovation and Modernization Act

AGENCY: Nuclear Regulatory Commission.

ACTION: Public meetings; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is undertaking activities to implement the Nuclear Energy Innovation and Modernization Act (NEIMA) and develop a report identifying best practices for establishment and operation of local community advisory boards associated with decommissioning activities, including lessons learned from existing boards. As part of developing the report, the NRC will host a minimum of ten public meetings to consult with host States, communities within the emergency planning zone of a nuclear power reactor, and existing local community advisory boards. The NRC is seeking stakeholder input to inform the selection of public meeting locations.

DATES: Requests for a public meeting conducted in accordance with NEIMA must be filed by April 17, 2019.

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

- *Federal Rulemaking Website:* Go to <http://www.regulations.gov> and search

for Docket ID NRC–2019–0073. Address questions about NRC dockets IDs in *Regulations.gov* to Krupskaya Castellon; telephone: 301–287–9122; email: Krupskaya.Castellon@nrc.gov. For technical questions, contact the individual(s) listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *Mail comments to:* Office of Administration, Mail Stop: TWFN–7–A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Program Management, Announcements and Editing Staff.

For additional direction on obtaining information and submitting comments, see "Obtaining Information and Submitting Comments" in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Kim Conway, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–1335; email: NEIMA108.Resource@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2019–0073 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to <http://www.regulations.gov> and search for Docket ID NRC–2019–0073.

- *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 "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.

- *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.

B. Submitting Comments

Please include Docket ID NRC–2019–0073 in your comment submission. The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission.

The NRC will post all comment submissions at <http://www.regulations.gov> as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons to not include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Introduction

The NRC is planning to coordinate activities in accordance with Section 108 of NEIMA to collect information on the use local community advisory boards during decommissioning activities and issue a best practices report.

The contents of this report, scheduled to be issued to Congress by June 2020, will include a description of the type of topics that could be brought before a community advisory board; how the board's input could inform the decision-making process of stakeholders for various decommissioning activities; how the board could interact with the NRC and other Federal regulatory bodies to promote dialogue between the licensee and affected stakeholders; and how the board could offer opportunities for public engagement throughout all phases of the decommissioning process. The report will also include a discussion of the composition of existing community advisory boards and best practices identified during the establishment and operation of such boards, including logistical considerations, frequency of meetings, and the selection of board members.

In developing a best practices report, and as required by NEIMA, the NRC plans to consult with host States, communities within the emergency planning zone of a nuclear power reactor, and existing local community advisory boards. This consultation also includes a minimum of ten Category 3 public meetings to be held in locations that ensure geographic diversity across the United States, with priority given to States that (i) have a nuclear power reactor currently undergoing the decommissioning process; and (ii) request a public meeting under this provision of NEIMA. At NRC Category 3 public meetings, the public will be

invited to participate by providing comments and asking questions.

III. Opportunity To Request a Public Meeting

The NRC is seeking stakeholder input to inform the selection of public meeting locations. Within 30 days from the date of publication of this notice, persons may submit a written request for the NRC to host a public meeting that would address the potential best practices for the establishment and use of a local community advisory board at decommissioning nuclear power reactors. After receiving these requests for public meetings, the NRC will determine the location and timing of the public meetings in order to ensure a geographic diversity across the United States, consistent with NEIMA. Meeting requests should be submitted as described in the **ADDRESSES** section of this document.

Dated at Rockville, Maryland this 13th day of March 2019.

For the Nuclear Regulatory Commission
Bruce A. Watson,

*Chief, Reactor Decommissioning Branch,
Division of Decommissioning, Uranium
Recovery and Waste Programs, Office of
Nuclear Material Safety and Safeguards.*

[FR Doc. 2019-04960 Filed 3-15-19; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[NRC-2018-0161]

Information Collection: Exemptions and Continued Regulatory Authority in Agreement States and in Offshore Waters Under Section 274 of the Atomic Energy Act of 1954

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of submission to the Office of Management and Budget; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has recently submitted a proposed collection of information which included a request for revision of an existing collection of information to the Office of Management and Budget (OMB) for review. The information collection is entitled, "10 CFR part 150, Exemptions and Continued Regulatory Authority in Agreement States and in Offshore Waters Under Section 274 of the Atomic Energy Act of 1954."

DATES: Submit comments by April 17, 2019.

ADDRESSES: Submit comments directly to the OMB reviewer at: OMB Office of Information and Regulatory Affairs (3150-0032), Attn: Desk Officer for the Nuclear Regulatory Commission, 725 17th Street NW, Washington, DC 20503; email: oir_submission@omb.eop.gov.

FOR FURTHER INFORMATION CONTACT: David Cullison, NRC Clearance Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-2084; email: INFOCOLLECTS.Resource@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC-2018-0161 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal rulemaking Website:* Go to <http://www.regulations.gov> and search for Docket ID NRC-2018-0161.

- *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 "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.

- *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.

- *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting the NRC's Clearance Officer, David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-2084; email: INFOCOLLECTS.Resource@NRC.GOV.

B. Submitting Comments

The NRC cautions you not to include identifying or contact information in your comment submissions that you do not want to be publicly disclosed. All comment submissions are posted at <http://www.regulations.gov> and entered into ADAMS. Comment submissions are not routinely edited to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for

submission to the OMB, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that comment submissions are not routinely edited to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC recently submitted a proposed collection of information which included a request for extension of an existing collection of information to OMB for review entitled, "The Office of Nuclear Material Safety and Safeguards Requests for Information on 10 CFR part 150, Exemptions and Continued Regulatory Authority in Agreement States and in Offshore Waters Under Section 274 of the Atomic Energy Act of 1954." The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The NRC published a **Federal Register** notice with a 60-day comment period on this information collection on October 10, 2018, (83 FR 50969).

1. *The title of the information collection:* 10 CFR part 150, Exemptions and Continued Regulatory Authority in Agreement States and in Offshore Waters Under Section 274 of the Atomic Energy Act of 1954.

2. *OMB approval number:* 3150-0032.

3. *Type of submission:* Extension.

4. *The form number if applicable:* N/A.

5. *How often the collection is required or requested:* One-time or as-needed.

6. *Who will be required or asked to respond:* Agreement States who have signed Section 274(b) Agreements with the NRC.

7. *The estimated number of annual responses:* 8.

8. *The estimated number of annual respondents:* 8.

9. *An estimate of the total number of hours needed annually to comply with the Information collection requirement or request:* 190.

10. *Abstract:* The Nuclear Regulatory Commission (NRC) regulations in part 150 of Title 10 of the *Code of Federal Regulations* (10 CFR), provide certain exemptions to persons in Agreement States from the licensing requirements contained in Chapters 6, 7, and 8 of the Atomic Energy Act of 1954, as amended,

and certain regulations of the Commission. The regulations in 10 CFR part 150 also define the Commission's continued regulatory authority over Agreement State activities which include byproduct, source, and special nuclear material reporting requirements related to reciprocity and enforcement. There exists a need for the NRC to gather information concerning the application, recordkeeping, and reporting requirements imposed by specific sections of 10 CFR part 150.

Dated at Rockville, Maryland, this 12th day of March 2019.

For the Nuclear Regulatory Commission.

Kristen E. Benney,

Acting NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2019-04910 Filed 3-15-19; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 52-025 and 52-026; NRC-2008-0252]

Southern Nuclear Operating Company, Inc.; Vogtle Electric Generating Plant, Units 3 and 4, Reactor Coolant System Flow Coastdown

AGENCY: Nuclear Regulatory Commission.

ACTION: Exemption and combined license amendment; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is granting an exemption to allow a departure from the certification information of Tier 1 of the generic design control document (DCD) and is issuing License Amendment Nos. 155 and 154 to Combined Licenses (COL), NPF-91 and NPF-92. The COLs were issued to Southern Nuclear Operating Company, Inc., Georgia Power Company, Oglethorpe Power Corporation, MEAG Power SPVM, LLC, MEAG Power SPVJ, LLC, MEAG Power SPVP, LLC, and the City of Dalton, Georgia (collectively SNC); for construction and operation of the Vogtle Electric Generating Plant (VEGP) Units 3 and 4, located in Burke County, Georgia. The granting of the exemption allows the changes to Tier 1 information requested in the amendment. Because the acceptability of the exemption was determined in part by the acceptability of the amendment, the exemption and amendment are being issued concurrently.

DATES: The exemption and amendment were issued on February 25, 2019.

ADDRESSES: Please refer to Docket ID NRC-2008-0252 when contacting the

NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

- **Federal Rulemaking Website:** Go to <http://www.regulations.gov> and search for Docket ID NRC-2008-0252. Address questions about NRC docket IDs to Krupskaya Castellon; telephone: 301-287-9221; email: Krupskaya.Castellon@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 "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by email to pdr.resource@nrc.gov. The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document. The request for the amendment and exemption was submitted by letter dated August 31, 2018 (ADAMS Accession No. ML18243A459).

- **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: Peter Hearn, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-1189; email: Peter.Hearn@NRC.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

The NRC is granting exemptions from paragraph B of section III, "Scope and Contents," of appendix D, "Design Certification Rule for the AP1000," to part 52 of title 10 of the *Code of Federal Regulations* (10 CFR), and issuing License Amendment Nos. 155 and 154 to COLs, NPF-91 and NPF-92, to SNC. The exemptions are required by paragraph A.4 of section VIII, "Processes for Changes and Departures," appendix D, to 10 CFR part 52 to allow SNC to depart from Tier 1 information. With the requested amendment, SNC sought proposed changes that would revise the initial test program in the Updated Final Safety Analysis Report Tier 2 information. The

proposed amendment also involves DCD Tier 2* and Tier 2 information and related changes to the VEGP Units 3 and 4 COL and plant-specific Tier 1 information, with corresponding changes to the associated COL Appendix C information.

Part of the justification for granting the exemptions was provided by the review of the amendments. Because the exemption is necessary in order to issue the requested license amendment, the NRC granted the exemptions and issued the amendments concurrently, rather than in sequence. This included issuing a combined safety evaluation containing the NRC staff's review of both the exemption request and the license amendment. The exemptions met all applicable regulatory criteria set forth in sections 50.12, 10 CFR 52.7, and section VIII.A.4 of appendix D to 10 CFR part 52. The license amendments were found to be acceptable as well. The combined safety evaluation is available in ADAMS under Accession No. ML19038A458.

Identical exemption documents (except for referenced unit numbers and license numbers) were issued to SNC for VEGP Units 3 and 4 (COLs NPF-91 and NPF-92). The exemption documents for VEGP Units 3 and 4 can be found in ADAMS under Accession Nos. ML19038A452 and ML19038A453, respectively. The exemption is reproduced (with the exception of abbreviated titles and additional citations) in Section II of this document. The amendment documents for COLs NPF-91 and NPF-92 are available in ADAMS under Accession Nos. ML19038A454 and ML19038A456, respectively. A summary of the amendment documents is provided in Section III of this document.

II. Exemption

Reproduced below is the exemption document issued to VEGP Units 3 and Unit 4. It makes reference to the combined safety evaluation that provides the reasoning for the findings made by the NRC (and listed under Item 1) in order to grant the exemption:

1. In a letter dated August 31, 2018, the Southern Nuclear Operating Company (SNC) requested from the Nuclear Regulatory Commission (NRC or Commission) an exemption to allow departures from Tier 1 information in the certified DCD incorporated by reference in Title 10 of the *Code of Federal Regulations* (10 CFR) part 52, appendix D, "Design Certification Rule for the AP1000 Design," as part of license amendment request (LAR) 18-025, "Reactor Coolant System (RCS) Flow Coastdown."

For the reasons set forth in Section 3.2 of the NRC staff's Safety Evaluation, which can be found at Agencywide Documents Access and Management System (ADAMS) Accession Number ML19038A458, the Commission finds that:

A. The exemption is authorized by law;

B. the exemption presents no undue risk to public health and safety;

C. the exemption is consistent with the common defense and security;

D. special circumstances are present in that the application of the rule in this circumstance is not necessary to serve the underlying purpose of the rule;

E. the special circumstances outweigh any decrease in safety that may result from the reduction in standardization caused by the exemption; and

F. the exemption will not result in a significant decrease in the level of safety otherwise provided by the design.

2. Accordingly, SNC is granted an exemption from the certified DCD Tier 1 information, with corresponding changes to Appendix C of the facility Combined License as described in SNC's request dated August 31, 2018. This exemption is related to, and necessary for, the granting of License Amendment No. 155 [for Unit 3, 154 for Unit 4], which is being issued concurrently with this exemption.

3. As explained in Section 5.0 of the NRC staff's Safety Evaluation (ADAMS Accession Number ML19038A458) this exemption meets the eligibility criteria for categorical exclusion, set forth in 10 CFR 51.22(c)(9). Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment needs to be prepared in connection with the issuance of the exemption.

4. This exemption is effective as of the date of its issuance.

III. License Amendment Request

By letter dated August 31, 2018 (ADAMS Accession No. ML18243A459), SNC requested that the NRC amend the COLs for VEGP, Units 3 and 4, COL Nos. NPF-91 and NPF-92. The proposed amendment is described in Section I of this **Federal Register** notice.

The Commission has determined for these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR chapter I, which are set forth in the license amendment.

A notice of consideration of issuance of amendment to facility operating license or combined license, as applicable, proposed no significant hazards consideration determination, and opportunity for a hearing in connection with these actions, was published in the **Federal Register** on October 23, 2018 (83 FR 53515). No comments were received during the 30-day comment period.

The Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments.

IV. Conclusion

Using the reasons set forth in the combined safety evaluation, the staff granted the exemption and issued the amendment that SNC requested on August 31, 2018. The exemptions and amendments were issued on February 25, 2019, as part of a combined package to SNC (ADAMS Package Accession No. ML19038A450).

Dated at Rockville, Maryland, this 13th day of March 2019.

For the Nuclear Regulatory Commission.

Jennifer L. Dixon-Herrity,

Chief, Licensing Branch 2, Division of Licensing, Siting, and Environmental Analysis, Office of New Reactors.

[FR Doc. 2019-04958 Filed 3-15-19; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

662nd Meeting of the Advisory Committee on Reactor Safeguards (ACRS)

In accordance with the purposes of Sections 29 and 182b of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards (ACRS) will hold meetings on April 4-6, 2019, Two White Flint North, 11545 Rockville Pike, Conference Room T2D10, Rockville, MD 20852.

Thursday, April 4, 2019, Conference Room T2D10

8:30 a.m.-8:35 a.m.: Opening Remarks by the ACRS Chairman

(Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

8:35 a.m.-12:00 p.m.: NuScale Safety Evaluation Report for Chapters 9, 10, 11, 12 and 16 (Open/Closed)*—The Committee will have briefings by and discussion with representatives of the

NRC staff and NuScale regarding the identified chapters. [Note: This session may be closed in order to discuss and protect information designated as proprietary, pursuant to 5 U.S.C. 552b(c)(4)].

2:00 p.m.–3:30 p.m.: Biennial Review and Evaluation of the NRC Safety Research Program (Open)—The Committee will have briefings by and discussion with the Director of the Office of Nuclear Regulatory Research regarding the Committee's biennial review and evaluation of the NRC Safety Research Program.

3:45 p.m.–6:00 p.m.: Preparation of ACRS Reports/Retreat (Open/Closed)—The Committee will continue its discussion of proposed ACRS reports and retreat items. [Note: A portion of this session may be closed in order to discuss and protect information designated as proprietary, pursuant to 5 U.S.C. 552b(c)(4)]. [Note: A portion of this meeting may be closed pursuant to 5 U.S.C. 552b(c)(2) and (6) to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of the ACRS, and information the release of which would constitute a clearly unwarranted invasion of personal privacy].

Friday, April 5, 2019, Conference Room T2D10

8:30 a.m.–10:00 a.m.: Future ACRS Activities/Report of the Planning and Procedures Subcommittee and Reconciliation of ACRS Comments and Recommendations (Open/Closed)—The Committee will hear discussion of the recommendations of the Planning and Procedures Subcommittee regarding items proposed for consideration by the Full Committee during future ACRS meetings. [Note: A portion of this session may be closed in order to discuss and protect information designated as proprietary, pursuant to 5 U.S.C. 552b(c)(4)]. [Note: A portion of this meeting may be closed pursuant to 5 U.S.C. 552b(c)(2) and (6) to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of the ACRS, and information the release of which would constitute a clearly unwarranted invasion of personal privacy].

10:15 a.m.–12:00 p.m.: Preparation of ACRS Reports/Retreat (Open/Closed)—The Committee will continue its discussion of proposed ACRS reports and retreat items. [Note: A portion of this session may be closed in order to discuss and protect information designated as proprietary, pursuant to 5 U.S.C. 552b(c)(4)]. [Note: A portion of this meeting may be closed pursuant to

5 U.S.C. 552b(c)(2) and (6) to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of the ACRS, and information the release of which would constitute a clearly unwarranted invasion of personal privacy].

1:00 p.m.–6:00 p.m.: Preparation of ACRS Reports/Retreat (Open/Closed)—The Committee will continue its discussion of proposed ACRS reports and retreat items.

[Note: A portion of this session may be closed in order to discuss and protect information designated as proprietary, pursuant to 5 U.S.C. 552b(c)(4)]. [Note: A portion of this meeting may be closed pursuant to 5 U.S.C. 552b(c)(2) and (6) to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of the ACRS, and information the release of which would constitute a clearly unwarranted invasion of personal privacy].

Saturday, April 6, 2019, Conference Room T2D10

8:30 a.m.–12:00 p.m.: Preparation of ACRS Reports/Retreat (Open/Closed)—The Committee will continue its discussion of proposed ACRS reports and retreat items. [Note: A portion of this session may be closed in order to discuss and protect information designated as proprietary, pursuant to 5 U.S.C. 552b(c)(4)]. [Note: A portion of this meeting may be closed pursuant to 5 U.S.C. 552b(c)(2) and (6) to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of the ACRS, and information the release of which would constitute a clearly unwarranted invasion of personal privacy].

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on December 7, 2018 (83 FR 26506). In accordance with those procedures, oral or written views may be presented by members of the public, including representatives of the nuclear industry. Persons desiring to make oral statements should notify Quynh Nguyen, Cognizant ACRS Staff (Telephone: 301-415-5844, Email: Quynh.Nguyen@nrc.gov), 5 days before the meeting, if possible, so that appropriate arrangements can be made to allow necessary time during the meeting for such statements. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the Cognizant ACRS staff if such rescheduling would result in major

inconvenience. The bridgeline number for the meeting is 866-822-3032, passcode 8272423#.

Thirty-five hard copies of each presentation or handout should be provided 30 minutes before the meeting. In addition, one electronic copy of each presentation should be emailed to the Cognizant ACRS Staff one day before meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the Cognizant ACRS Staff with a CD containing each presentation at least 30 minutes before the meeting.

In accordance with Subsection 10(d) of Public Law 92-463 and 5 U.S.C. 552b(c), certain portions of this meeting may be closed, as specifically noted above. Use of still, motion picture, and television cameras during the meeting may be limited to selected portions of the meeting as determined by the Chairman. Electronic recordings will be permitted only during the open portions of the meeting.

ACRS meeting agendas, meeting transcripts, and letter reports are available through the NRC Public Document Room at pdr.resource@nrc.gov, or by calling the PDR at 1-800-397-4209, or from the Publicly Available Records System (PARS) component of NRC's document system (ADAMS) which is accessible from the NRC website at <http://www.nrc.gov/reading-rm/adams.html> or <http://www.nrc.gov/reading-rm/doc-collections/#ACRS/>.

Video teleconferencing service is available for observing open sessions of ACRS meetings. Those wishing to use this service should contact Ms. Paula Dorm, ACRS Audio Visual Technician (301-415-7799), between 7:30 a.m. and 3:45 p.m. (ET), at least 10 days before the meeting to ensure the availability of this service. Individuals or organizations requesting this service will be responsible for telephone line charges and for providing the equipment and facilities that they use to establish the video teleconferencing link. The availability of video teleconferencing services is not guaranteed.

Dated: March 12, 2019.

Russell E. Chazell,

Federal Advisory Committee Management Officer, Office of the Secretary.

[FR Doc. 2019-04931 Filed 3-15-19; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

Revised Meeting of the Advisory Committee on Reactor Safeguards (ACRS) Subcommittee on NuScale

The ACRS Subcommittee on NuScale will hold a meeting on March 21, 2019, at U.S. Nuclear Regulatory Commission, Two White Flint North, Conference Room T3D50, 11545 Rockville Pike, Rockville, MD 20852.

The meeting will be open to public attendance with the exception of portions that may be closed to protect information that is proprietary pursuant to 5 U.S.C. 552b(c)(4). The agenda for the subject meeting shall be as follows:

Thursday, March 21, 2019–8:30 a.m. Until 5:00 p.m.

The Subcommittee will review Chapters 10, “Steam and Power Conversion System,” Chapter 11, “Radioactive Waste Management,” and Chapter 12, “Radiation Protection,” of the safety evaluation report with open items associated with the NuScale design certification application. The Subcommittee will hear presentations by and hold discussions with the NRC staff, NuScale and other interested persons regarding this matter. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the Full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official (DFO), Michael Snodderly (Telephone 301–415–2241 or Email: Michael.Snodderly@nrc.gov) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Thirty-five hard copies of each presentation or handout should be provided to the DFO thirty minutes before the meeting. In addition, one electronic copy of each presentation should be emailed to the DFO one day before the meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the DFO with a CD containing each presentation at least thirty minutes before the meeting. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. The public bridgeline number for the meeting is 866–822–3032, passcode 8272423. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on December 7, 2018 (83 FR 26506).

Detailed meeting agendas and meeting transcripts are available on the NRC website at <http://www.nrc.gov/reading-rm/doc-collections/acrs>. Information regarding topics to be discussed, changes to the agenda, whether the meeting has been canceled or rescheduled, and the time allotted to present oral statements can be obtained from the website cited above or by contacting the identified DFO. Moreover, in view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with these references if such rescheduling would result in a major inconvenience.

If attending this meeting, please enter through the One White Flint North building, 11555 Rockville Pike, Rockville, Maryland. After registering with Security, please contact Paula Dorm (Telephone 301–415–7799) to be escorted to the meeting room.

Dated: March 13, 2019.

Lawrence Burkhardt,

Chief, Technical Support Branch, Advisory Committee on Reactor Safeguards.

[FR Doc. 2019–05025 Filed 3–15–19; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. CP2016–59; CP2018–209; MC2019–94 and CP2019–100; MC2019–95 and CP2019–101; MC2019–96 and CP2019–102]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission’s consideration concerning negotiated service agreements. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* March 21, 2019, and March 22, 2019.

ADDRESSES: Submit comments electronically via the Commission’s Filing Online system at <http://www.prc.gov>. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT:

David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION: The March 21, 2019 comment due date applies to Docket No. CP2016–59.

The March 22, 2019 comment due date applies to Docket Nos. CP2018–209; MC2019–94 and CP2019–100; MC2019–95 and CP2019–101; MC2019–96 and CP2019–102.

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- I. Introduction
- II. Docketed Proceeding(s)

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request’s acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service’s request(s) can be accessed via the Commission’s website (<http://www.prc.gov>). Non-public portions of the Postal Service’s request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3007.301.¹

The Commission invites comments on whether the Postal Service’s request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3010, and 39 CFR part 3020, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comment deadline(s) for each request appear in section II.

¹ See Docket No. RM2018–3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19–22 (Order No. 4679).

II. Docketed Proceeding(s)

1. *Docket No(s)*.: CP2016–59; *Filing Title*: USPS Notice of Amendment to Priority Mail & First-Class Package Service Contract 9, Filed Under Seal; *Filing Acceptance Date*: March 12, 2019; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3020.30 *et seq.*, and 39 CFR 3015.5; *Public Representative*: Matthew R. Ashford; *Comments Due*: March 21, 2019.

2. *Docket No(s)*.: CP2018–209; *Filing Title*: USPS Notice of Amendment to Priority Mail & First-Class Package Service Contract 79, Filed Under Seal; *Filing Acceptance Date*: March 12, 2019; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3020.30 *et seq.*, and 39 CFR 3015.5; *Public Representative*: Matthew R. Ashford; *Comments Due*: March 22, 2019.

3. *Docket No(s)*.: MC2019–94 and CP2019–100; *Filing Title*: USPS Request to Add Priority Mail Express & Priority Mail Contract 88 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: March 12, 2019; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3020.30 *et seq.*, and 39 CFR 3015.5; *Public Representative*: Christopher C. Mohr; *Comments Due*: March 22, 2019.

4. *Docket No(s)*.: MC2019–95 and CP2019–101; *Filing Title*: USPS Request to Add Parcel Return Service Contract 13 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: March 12, 2019; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3020.30 *et seq.*, and 39 CFR 3015.5; *Public Representative*: Christopher C. Mohr; *Comments Due*: March 22, 2019.

5. *Docket No(s)*.: MC2019–96 and CP2019–102; *Filing Title*: USPS Request to Add Parcel Return Service Contract 14 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: March 12, 2019; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3020.30 *et seq.*, and 39 CFR 3015.5; *Public Representative*: Lyudmila Y. Bzhilyanskaya; *Comments Due*: March 22, 2019.

This Notice will be published in the **Federal Register**.

Stacy L. Ruble,

Secretary.

[FR Doc. 2019–05021 Filed 3–15–19; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[**Docket Nos.** CP2016–274; CP2017–313; CP2018–279; MC2019–89 and CP2019–95; MC2019–90 and CP2019–96; MC2019–91 and CP2019–97; MC2019–92 and CP2019–98; MC2019–93 and CP2019–99]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning negotiated service agreements. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due*: March 20, 2019, and March 21, 2019.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at <http://www.prc.gov>. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION: The March 20, 2019 comment due date applies to Docket Nos. MC2019–89 and CP2019–95; MC2019–90 and CP2019–96; MC2019–91 and CP2019–97; MC2019–92 and CP2019–98.

The March 21, 2019 comment due date applies to Docket Nos. CP2016–274; CP2017–313; CP2018–279; MC2019–93 and CP2019–99.

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- I. Introduction
- II. Docketed Proceeding(s)

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an

officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (<http://www.prc.gov>). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3007.301.¹

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3010, and 39 CFR part 3020, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s)*.: CP2016–274; *Filing Title*: USPS Notice of Amendment to Priority Mail Contract 236, Filed Under Seal; *Filing Acceptance Date*: March 11, 2019; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3020.30 *et seq.*, and 39 CFR 3015.5; *Public Representative*: Gregory Stanton; *Comments Due*: March 21, 2019.

2. *Docket No(s)*.: CP2017–313; *Filing Title*: USPS Notice of Amendment to Priority Mail Contract 359, Filed Under Seal; *Filing Acceptance Date*: March 11, 2019; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3020.30 *et seq.*, and 39 CFR 3015.5; *Public Representative*: Gregory Stanton; *Comments Due*: March 21, 2019.

3. *Docket No(s)*.: CP2018–279; *Filing Title*: USPS Notice of Amendment to Priority Mail Contract 457, Filed Under Seal; *Filing Acceptance Date*: March 11, 2019; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3020.30 *et seq.*, and 39 CFR 3015.5; *Public Representative*: Gregory Stanton; *Comments Due*: March 21, 2019.

4. *Docket No(s)*.: MC2019–89 and CP2019–95; *Filing Title*: USPS Request to Add Priority Mail Express Contract

¹ See Docket No. RM2018–3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19–22 (Order No. 4679).

71 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: March 11, 2019; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3020.30 *et seq.*, and 39 CFR 3015.5; *Public Representative*: Lyudmila Y. Bzhilyanskaya; *Comments Due*: March 20, 2019.

5. *Docket No(s)*: MC2019–90 and CP2019–96; *Filing Title*: USPS Request to Add Priority Mail Express & Priority Mail Contract 87 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: March 11, 2019; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3020.30 *et seq.*, and 39 CFR 3015.5; *Public Representative*: Lyudmila Y. Bzhilyanskaya; *Comments Due*: March 20, 2019.

6. *Docket No(s)*: MC2019–91 and CP2019–97; *Filing Title*: USPS Request to Add Priority Mail & First-Class Package Service Contract 94 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: March 11, 2019; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3020.30 *et seq.*, and 39 CFR 3015.5; *Public Representative*: Lyudmila Y. Bzhilyanskaya; *Comments Due*: March 20, 2019.

7. *Docket No(s)*: MC2019–92 and CP2019–98; *Filing Title*: USPS Request to Add First-Class Package Service Contract 98 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: March 11, 2019; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3020.30 *et seq.*, and 39 CFR 3015.5; *Public Representative*: Kenneth R. Moeller; *Comments Due*: March 20, 2019.

8. *Docket No(s)*: MC2019–93 and CP2019–99; *Filing Title*: USPS Request to Add Priority Mail Express, Priority Mail & First-Class Package Service Contract 52 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: March 11, 2019; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3020.30 *et seq.*, and 39 CFR 3015.5; *Public Representative*: Kenneth R. Moeller; *Comments Due*: March 21, 2019.

This Notice will be published in the **Federal Register**.

Ruth Ann Abrams,
Acting Secretary.

[FR Doc. 2019–04927 Filed 3–15–19; 8:45 am]

BILLING CODE 7710–FW–P

PRESIDIO TRUST

Notice of Public Meeting

AGENCY: The Presidio Trust.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Presidio Trust Act, 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 5:30 p.m. on April 24, 2019, at the Golden Gate Club, 135 Fisher Loop, Presidio of San Francisco, California.

The purposes of this meeting are to: Provide the Chairperson's report; provide the Chief Executive Officer's report; honor Greg Moore's service to the Presidio as CEO of the Golden Gate National Parks Conservancy; permit the respondent(s) to the Trust's request for proposals for the Fort Winfield Scott project to present their response(s) to the Board of Directors for the Board's consideration; and receive public comment on these and other matters pertaining to Trust business.

Individuals requiring special accommodation at this meeting, such as needing a sign language interpreter, should contact Laurie Fox at 415.561.5300 prior to April 16, 2019.

DATES: The meeting will begin at 5:30 p.m. on April 24, 2019.

ADDRESSES: The meeting will be held at the Golden Gate Club, 135 Fisher Loop, Presidio of San Francisco.

FOR FURTHER INFORMATION CONTACT: George K.H. Schell, General Counsel, the Presidio Trust, 103 Montgomery Street, P.O. Box 29052, San Francisco, California 94129–0052, Telephone: 415.561.5300.

Dated: March 12, 2019.

Jean S. Fraser,
Chief Executive Officer.

[FR Doc. 2019–05038 Filed 3–15–19; 8:45 am]

BILLING CODE 4310–4R–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–85292; File No. SR–NASDAQ–2019–010]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Disseminate Abbreviated Order Imbalance Information Prior to Dissemination of the Order Imbalance Indicator

March 12, 2019.

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 February 27, 2019, The Nasdaq Stock Market LLC

(“Nasdaq” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to disseminate abbreviated order imbalance information prior to the dissemination of the Order Imbalance Indicator. The text of the proposed rule change is available on the Exchange's website at <http://nasdaq.cchwallstreet.com>, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Nasdaq provides transparency into its Closing Cross auction via the “Order Imbalance Indicator” (also known as the “Net Order Imbalance Indicator” or “NOII”). The NOII is a message disseminated by electronic means containing information about MOC,³

³ A “Market on Close Order” or “MOC” is an Order Type entered without a price that may be executed only during the Nasdaq Closing Cross. MOC Orders may be entered, cancelled, and/or modified between 4 a.m. ET and immediately prior to 3:55 p.m. ET. Between 3:55 p.m. ET and immediately prior to 3:58 p.m. ET, an MOC Order can be cancelled and/or modified only if the Participant requests that Nasdaq correct a legitimate error in the Order. MOC Orders cannot be cancelled or modified at or after 3:58 p.m. ET for any reason. An MOC Order executes only at the price determined by the Nasdaq Closing Cross. See Rule 4702(b)(11).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

LOC,⁴ IO,⁵ and Close Eligible Interest⁶ and the price at which those orders would execute at the time of dissemination.⁷ Specifically, the NOII consists of: (1) The “Current Reference Price”⁸; (2) the number of shares represented by MOC, LOC, and IO Orders that are paired at the Current Reference Price; (3) the size of any

⁴ Pursuant to Rule 4702(b)(12), a “Limit on Close Order” or “LOC” is an Order Type entered with a price that may be executed only in the Nasdaq Closing Cross, and only if the price determined by the Nasdaq Closing Cross is equal to or better than the price at which the LOC Order was entered. LOC Orders may be entered, cancelled, and/or modified between 4 a.m. ET and immediately prior to 3:55 p.m. ET. Between 3:55 p.m. ET and immediately prior to 3:58 p.m. ET, an LOC Order may be entered provided that there is a “First Reference Price,” *i.e.*, the “Current Reference Price” (*infra* n.8 below) that Nasdaq disseminates in the first NOII at or after 3:55 p.m. ET. See Rule 4754(a)(9). Also between 3:55 p.m. ET and immediately prior to 3:58 p.m. ET, an LOC Order can be cancelled but not modified, and only if the Participant requests that Nasdaq correct a legitimate error in the Order. An LOC Order entered between 3:55 p.m. ET and immediately prior to 3:58 p.m. ET is accepted at its limit price, unless its limit price is higher (lower) than the First Reference Price for an LOC Order to buy (sell), in which case the LOC Order is handled consistent with the Participant’s instruction that the LOC Order is to be: (1) Rejected; or (2) re-priced to the First Reference Price, provided that if the First Reference Price is not at a permissible minimum increment, the First Reference Price will be rounded (i) to the nearest permitted minimum increment (with midpoint prices being rounded up) if there is no imbalance, (ii) up if there is a buy imbalance, or (iii) down if there is a sell imbalance. The default configuration for Participants that do not specify otherwise is to have such LOC Orders re-priced rather than rejected.

⁵ An “Imbalance Only Order” or “IO” is an Order entered with a price that may be executed only in the Nasdaq Closing Cross and only against MOC Orders or LOC Orders. IO Orders may be entered between 4:00 a.m. ET until the time of execution of the Nasdaq Closing Cross, but may not be cancelled or modified at or after 3:55 p.m. ET. Between 3:55 p.m. ET and immediately prior to 3:58 p.m. ET, however, an IO Order can be cancelled and/or modified if the Participant requests that Nasdaq correct a legitimate error in the Order. IO Orders cannot be cancelled or modified at or after 3:58 p.m. ET for any reason. See Rule 4702(b)(13).

⁶ “Close Eligible Interest” means “any quotation or any order that may be entered into the system and designated with a time-in-force of SDAY, SGTC, MDAY, MGTC, SHEX, or GTMC.” Rule 4754(a)(1).

⁷ See Rule 4754(a)(7).

⁸ Pursuant to Rule 4754(a)(7)(A), the “Current Reference Price” means the following: (i) The single price that is at or within the current Nasdaq Market Center best bid and offer at which the maximum number of shares of MOC, LOC, and IO orders can be paired; (ii) if more than one price exists under subparagraph (i), the Current Reference Price shall mean the price that minimizes any Imbalance; (iii) if more than one price exists under subparagraph (ii), the Current Reference Price shall mean the entered price at which shares will remain unexecuted in the cross; or (iv) if more than one price exists under subparagraph (iii), the Current Reference Price shall mean the price that minimizes the distance from the bid-ask midpoint of the inside quotation prevailing at the time of the order imbalance indicator dissemination.

“Imbalance”⁹; (4) the buy/sell direction of any Imbalance; and (5) indicative prices at which the Nasdaq Closing Cross would occur if it occurred at that time and the percent by which the indicative prices are outside the then current Nasdaq Market Center best bid or best offer, whichever is closer. The NOII is useful because it helps Participants to identify at what price and size the Closing Cross will commence, as well as number of shares required to offset any order imbalances to optimize an auction.

Prior to October 2018, Nasdaq disseminated the NOII beginning at 3:50 p.m. ET, which was also the cutoff time (the “Cutoff”) for entering MOC and certain LOC Orders into the Closing Cross, and it disseminated the NOII at five second intervals thereafter until market close. In October 2018, Nasdaq amended the Closing Cross process by moving both the Closing Cross Cutoff time and the commencement time of the NOII to 3:55 p.m. ET.¹⁰ Also in October, the Exchange also began disseminating the NOII in one second intervals until market close.¹¹

When the Exchange proposed these changes to the timing of the NOII, it did so with the belief that “continuing to disseminate the Order Imbalance Indicator starting at the Closing Cross Cutoff . . . will ensure that market participants receive a more complete picture of on close interest when such interest is relatively settled.”¹² The Exchange furthermore asserted that synchronizing the NOII to the new Closing Cross Cutoff time was appropriate because the Closing Cross Cutoff “is when the Exchange believes it is possible to disseminate meaningful information about the Nasdaq Closing Cross” and “any information disseminated before the Closing Cross Cutoff has the potential to be misleading to some market Participants” (given that Participants may freely submit additional, cancel, or modify on close interest prior to the Cutoff and frequently do so immediately prior to the Cutoff).¹³

Likewise, in proposing to increase the frequency of the NOII from five to one second intervals, the Exchange asserted that “more frequent dissemination will

be beneficial to market participants that use this information.”¹⁴ Specifically, the Exchange noted that “the increased automation and efficiency in the equities markets that spurred the changed cutoff times . . . also justify increasing the frequency for disseminating information to the market.”¹⁵

Subsequent to October 2018, the Exchange has revisited its thinking regarding the utility and effect of an early dissemination of the NOII. The Exchange believes, based upon Participant feedback, that an early release of a subset of the NOII would be useful to Participants and improve price discovery in the Closing Cross.

Specifically, Nasdaq believes that an early release of NOII data comprising the Current Reference Price, the number of paired shares, the imbalance size, and the imbalance direction would offer Participants additional time and flexibility to react to imbalance information in advance of the Closing Cross Cutoff and also aid them in making informed decisions about whether and how to participate in the Closing Cross. In other words, early dissemination of this data will help Participants to make educated decisions as to whether, how, and at what likely prices they may interact with paired and imbalanced shares—and do so at a point in time when their decisions do not present a risk of adverse consequences because the Participant’s orders can still be freely modified or cancelled prior to the Closing Cross Cutoff time. For example, if Nasdaq was to release an early NOII indicating that a buy imbalance exists for a particular symbol, a Participant could act on that information in advance of the Closing Cross Cutoff to offset the imbalance, while also providing additional liquidity in the Closing Cross.

However, the Exchange believes that an early release of the NOII should exclude indicative prices, including Near and Far Closing Prices. Because Participants may freely enter new orders or cancel or modify existing orders prior to the Closing Cross Cutoff, indicative prices may change dramatically during this time.¹⁶ The Exchange believes that early dissemination of indicative price information would be less useful during

⁹ An “Imbalance” means the number of shares of buy or sell MOC, or LOC Orders that cannot be matched with other MOC or LOC, or IO Order shares at a particular price at any given time. See Rule 4754(a)(2).

¹⁰ See Securities Exchange Act Release No. 34–84454 (Oct. 19, 2018), 83 FR 53923 (Oct. 25, 2018).

¹¹ See *id.*

¹² SR–NASDAQ–2018–068 Amendment No. 1, at 9 (filed Oct. 15, 2018).

¹³ *Id.* at 14.

¹⁴ *Id.* at 10.

¹⁵ *Id.* at 15.

¹⁶ Unlike the Current Reference Price, which represents only the current price that maximizes the number of paired shares of on-close orders slated to participate in the Closing Cross, the Near and Far Indicative Prices are likely to be more volatile prior to the Closing Cross Cutoff because they also account for orders that exist on the continuous book.

the pre-Cutoff period than it is during the period between 3:55:00–4:00:00, when Participants are restricted from entering, modifying, or canceling orders.

Likewise, Nasdaq believes that a second-by-second dissemination of NOII information prior to the Closing Cross Cutoff time would not be necessary or helpful, and that less frequent dissemination would suffice. Whereas after the Closing Cross Cutoff time, Participants face order restrictions and time pressures that render rapid refreshes of the NOII critical to guiding their decisions, such order restrictions and time pressures do not exist, or are less acute, prior to the Closing Cross Cutoff.

Accordingly, Nasdaq now proposes to amend its Closing Cross procedures to provide for an early dissemination of a subset of NOII information at a lower frequency. Specifically, Nasdaq proposes to amend Rule 4754 to begin disseminating an “Early Order Imbalance Indicator” or “EOII” at 3:50 p.m. ET (or 10 minutes prior to the early closing time on a day when Nasdaq closes early).¹⁷ The Exchange proposes, in proposed Rule 4754(a)(10), that the EOII will consist of the same information as the full NOII (the Current Reference Price, the number of paired shares, the imbalance size, and the imbalance direction) except that it will not include the indicative price information set forth in Rule 4754(a)(7)(E), such as the Near Clearing Price or the Far Clearing Price. Unlike the full NOII, which disseminates in one second intervals, Nasdaq proposes to disseminate the EOII in 10 second intervals. At 3:55 p.m. ET or five minutes prior to the early closing time on a day when Nasdaq closes early, Nasdaq will cease disseminating the EOII and instead it will begin disseminating the full NOII at one second intervals, with the full

complement of information forth in Rule 4754(a)(7).

The Exchange notes that the New York Stock Exchange (“NYSE”) similarly disseminates limited imbalance information prior to its 3:45 p.m. closing auction cutoff time.¹⁸

The Exchange proposes to implement this proposed rule change in Q2 2019. The Exchange will announce the implementation date of the EOII in an Equity Trader Alert issued to Participants prior to implementing the change.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,¹⁹ in general, and furthers the objectives of Section 6(b)(5) of the Act,²⁰ in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

In particular, disseminating an EOII for the Nasdaq Closing Cross earlier than the Closing Cross Cutoff time will increase the transparency of the Closing Cross process and facilitate price discovery. That is, the Exchange will offer Participants more information about the Closing Cross than they currently receive and the Exchange will provide this information to Participants at a time when Participants have more flexibility to act on it than they do when the full NOII disseminates after the Closing Cross Cutoff time. Participants may use the information gleaned from the EOII to offset imbalances or to otherwise enter, cancel, or modify orders in advance of the Closing Cross.

Moreover, Nasdaq believes it is in the best interests of Participants to exclude indicative pricing information from the EOII because the Near and Far Clearing Prices may change significantly prior to the Cutoff time as on close orders are added, cancelled, or modified. As noted above, the Near and Far Indicative

Prices are more likely than the Current Reference Price to be volatile prior to the Closing Cross Cutoff because they account for orders that exist on the continuous book. Indicative prices may be misleading to Participants if provided at a time when additional order activity is apt to occur and closing interest remains unsettled.

The Exchange believes that disseminating the EOII at 10 second intervals strikes the right balance between conveying material changes in imbalance information prior to the Closing Cross Cutoff time and avoiding excessive messaging traffic. As noted above, Participants do not require more frequent refreshes of EOII data given that, prior to the Closing Cross Cutoff time, they do not face the same order restrictions and time pressures that they do afterwards. The Exchange notes that the full NOII will continue to disseminate at one second intervals as of the Cutoff time.

B. Self-Regulatory Organization’s Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Rather, the Exchange believes that the proposed rule change is evidence of the competitive forces in the equities markets insofar as the establishment of the EOII is designed to render the Nasdaq Closing Cross more transparent and more attractive to Participants, both in an absolute sense and relative to the NYSE, which publishes similar imbalance information prior to the cutoff time for its closing auction. The proposed EOII will be equally available to Participants.

C. Self-Regulatory Organization’s Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section

¹⁷ On certain days during the calendar year, Nasdaq may close the market early, in accordance with Rules 4701(g) (defining the term “Market Hours” to mean 9:30 a.m. ET–4:00 p.m. ET “or such earlier time as may be designated by Nasdaq on a day when Nasdaq closes early”) and 4617 (stating that the Nasdaq trading system operates from 4:00 a.m. to 8:00 p.m. Eastern. Time on each business day “unless modified by Nasdaq”). In such instances, the Exchange proposes to disseminate the EOII beginning 10 minutes prior to the early market closing time. For example, if Nasdaq closes the market at 1 p.m. ET, Nasdaq would begin disseminating the EOII at 12:50 p.m. ET and the NOII at 12:55 p.m. ET. The Exchange notes that it proposes to add clarifying language to Rule 4754(b) that addresses the possibility of early dissemination, not only of the EOII, but also of the NOII. The existing Rule does not specify that the NOII may disseminate earlier than 3:55 p.m. ET in the event of an early market close.

¹⁸ See NYSE Rule 123C(1)(b) (providing for the dissemination of an “Informational Imbalance Publication” between 3:00 p.m. and 3:45 p.m. that “indicates a disparity between MOC and marketable LOC interest to buy and MOC and marketable LOC interest to sell of any size in any security that is not a Mandatory MOC/LOC Imbalance Publication”), NYSE Rule 123C(1)(d) (providing for dissemination of a “Mandatory MOC/LOC Imbalance Publication” that “indicates a disparity between MOC and marketable LOC interest to buy and MOC and marketable LOC interest to sell, measured at 3:45 p.m. . . .”), NYSE Rule 123C(5), and NYSE Rule 123C(6) (providing for the dissemination of imbalance information to Floor brokers between 2:00 p.m. and 3:45 p.m.).

¹⁹ 15 U.S.C. 78f(b).

²⁰ 15 U.S.C. 78f(b)(5).

19(b)(3)(A) of the Act²¹ and Rule 19b-4(f)(6) thereunder.²²

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-2019-010 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-2019-010. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and

printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NASDAQ-2019-010 and should be submitted on or before April 8, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²³

Eduardo A. Aleman,
Deputy Secretary.

[FR Doc. 2019-04945 Filed 3-15-19; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-85295; File No. SR-CBOE-2019-015]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing of a Proposed Rule Change To Allow \$1 Strike Price Intervals Above \$200 on Options on the QQQ and IWM Exchange-Traded Funds

March 12, 2019.

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (the "Act")² and Rule 19b-4 thereunder,³ notice is hereby given that, on March 6, 2019, Cboe Exchange, Inc. (the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe Exchange, Inc. (the "Exchange" or "Cboe Options") proposes to allow for \$1 strike prices above \$200 on additional options on Units of certain exchange-traded fund ("ETF") products.

The text of the proposed rule change is provided below.

(additions are *italicized*; deletions are [bracketed])

* * * * *

Rules of Cboe Exchange, Inc.

* * * * *

Rule 5.5. Series of Option Contracts Open for Trading

(a)-(e) (No change).

. . . Interpretations and Policies:

.01-.07 (No change).

.08

(a) Notwithstanding Interpretation and Policy .01 above, and except for options on Units covered under Interpretation and Policies .06 and .07 above, the interval between strike prices of series of options on Units, as defined under Interpretation and Policy .06 to Rule 5.3, will be \$1 or greater where the strike price is \$200 or less and \$5.00 or greater where the strike price is greater than \$200. For options on Units that are used to calculate a volatility index, the Exchange may open for trading \$0.50 strike price intervals as provided for in Interpretation and Policy .19 to this Rule 5.5.

(b) Notwithstanding Interpretation and Policy .01 and Interpretation and Policy .08(a) above, the interval between strike prices of series of options on Units of the Standard & Poor's Depository Receipts Trust ("SPY"), iShares S&P 500 Index ETF ("IVV"), PowerShares QQQ Trust ("QQQ"), iShares Russell 2000 Index Fund ("IWM"), and The DIAMONDS Trust ("DIA") will be \$1 or greater.

.09-.23 (No change)

* * * * *

The text of the proposed rule change is also available on the Exchange's website (<http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx>), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of

²¹ 15 U.S.C. 78s(b)(3)(A).

²² 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

²³ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Interpretation and Policy .08(b) to Rule 5.5 to allow for the interval between strike prices of series of options on Units of QQQ and IWM to be \$1 or greater where the strike price is greater than \$200.

Currently, Interpretation and Policy .08(b) to Rule 5.5 allows for the interval between strike prices of series of options on Units of SPY, IVV, and DIA to be \$1 or greater where the strike price is greater than \$200. Under Rule 5.5 Interpretation and Policy .08(a), the interval between strike prices of series of options on all other Units is currently \$5.00 or greater where the strike price is greater than \$200. Specifically, the Exchange proposes to modify the interval setting regime to allow \$1 strike price intervals where the strike price is above \$200 for IWM and QQQ options. The Exchange believes that the proposed rule change would make QQQ and IWM options easier for investors and traders to use and more tailored to their investment needs.

The QQQ and IWM are designed to provide investors different ways to efficiently gain exposure to the equity markets and execute risk management, hedging, asset allocation and income generation strategies. The QQQ is a Unit investment trust designed to closely track the price and performance of a the Nasdaq-100 Index ("NDX"), which represents the largest and most active non-financial domestic and international issues listed on The Nasdaq Stock Market based on market capitalization. Likewise, the IWM is an index ETF designed to closely track the price and performance of the Russell 2000 Index ("RUT"), which represents the small capitalization sector of the U.S. equity market. In general, QQQ and IWM options provide investors with the benefit of trading broader markets in a manageably sized contract.

The value of QQQ is designed to approximate 1/40 the value of the underlying NDX. For example, if the NDX price level is 1400, QQQ strike prices generally would be expected to be priced around \$35. The value of IWM is designed to approximate 1/10 the value of the underlying RUT. In the past year, the NDX has climbed above a price level of 7500, and the RUT climbed to

a price level of approximately 1700⁴ (both prior to the December 2018 market-wide decline). As the value of the underlying ETF (and the index the ETF tracks) and resulting strike prices for each option continues to appreciate, the Exchange has received Trading Permit Holder ("TPH") requests to list additional strike prices (\$1 increments) in QQQ and IWM options above \$200. The QQQ is among the most actively traded ETFs on the market. It is widely quoted as an indicator of technology stock prices and investor confidence in the technology and telecommunication market spaces, a significant indicator of overall economic health. Similarly, IWM is among the most actively traded ETFs on the market and provides investors with an investment tool to gain exposure to small U.S. public companies. Industry-wide trade volume in QQQ more than doubled from 2017 to 2018. As a result, QQQ options and IWM options have grown to become two of the largest options contracts in terms of trading volume. Investors use these products to diversify their portfolios and benefit from market trends.

Accordingly, the Exchange believes that offering a wider base of QQQ and IWM options affords traders and investors important hedging and trading opportunities, particularly in the midst of current price trends. The Exchange believes that not having the proposed \$1 strike price intervals above \$200 in QQQ and IWM significantly constricts investors' hedging and trading possibilities. The Exchange therefore believes that by having smaller strike intervals in QQQ and IWM, investors would have more efficient hedging and trading opportunities due to the lower \$1 interval ascension. The proposed \$1 intervals above the \$200 strike price, will result in having at-the-money series based upon the underlying ETFs moving less than 1%. The Exchange believes that the proposed strike setting regime is in line with the slower movements of broad-based indices. Considering the fact that \$1 intervals already exist below the \$200 price point and that both QQQ and IWM have consistently inclined in price toward the \$200 level, the Exchange believes that continuing to

maintain the current \$200 level (above which intervals increase 500% to \$5), may have a negative effect on investing, trading and hedging opportunities, and volume. The Exchange believes that the investing, trading, and hedging opportunities available with QQQ and IWM options far outweighs any potential negative impact of allowing QQQ and IWM options to trade in more finely tailored intervals above the \$200 price point.

The proposed strike setting regime would permit strikes to be set to more closely reflect the increasing values in the underlying indices and allow investors and traders to roll open positions from a lower strike to a higher strike in conjunction with the price movements of the underlying ETFs. Under the current rule, where the next higher available series would be \$5 away above a \$200 strike price, the ability to roll such positions is effectively negated. Accordingly, to move a position from a \$200 strike to a \$205 strike under the current rule, an investor would need for the underlying product to move 2.5%, and would not be able to execute a roll up until such a large movement occurred. As stated, the NDX and RUT have experienced continued, steady growth. The Exchange believes that with the proposed rule change, the investor would be in a significantly safer position of being able to roll his open options position from a \$200 to a \$201 strike price, which is only a 0.5% move for the underlying. As a result, the proposed rule change will allow the Exchange to better respond to customer demand for QQQ and IWM strike prices more precisely aligned with the smaller, longer-term incremental increases in respective underlying ETFs. The Exchange believes that the proposed rule change, like the other strike price programs currently offered by the Exchange, will benefit investors by providing investors the flexibility to more closely tailor their investment and hedging decisions using QQQ and IWM options. Moreover, by allowing series of QQQ and IWM options to be listed in \$1 intervals between strike prices over \$200, the proposal will moderately augment the potential total number of options series available on the Exchange. However, the Exchange believes it and the Options Price Reporting Authority ("OPRA") have the necessary systems capacity to handle any potential additional traffic associated with this proposed rule change. The Exchange also believes that TPHs will not have a capacity issue due to the proposed rule change. In addition, the Exchange represents that it

⁴ See Securities Exchange Act Release No. 72990 (September 4, 2014), 79 FR 53799 (September 10, 2014) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to the Strike Setting Regimes for SPY and DIA Options) (SR-CBOE-2014-068) (noting that at the time Interpretation and Policy .08 to Rule 5.5 was amended to modify the interval setting regimes for SPY and DIA to allow \$1 strike price intervals above \$200, the price levels for their respective underlying ETFs hovered around 2000 and 1700, comparable to the current NDX and RUT price levels).

does not believe that this expansion will cause fragmentation of liquidity, but rather, believes that finer strike intervals will serve to increase liquidity available as well as price efficiency by providing more trading opportunities for all market participants.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the “Act”) and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.⁵ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)⁶ requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

In particular, the proposed rule change to Interpretation and Policy .08(b) to Rule 5.5 will allow investors to more easily use QQQ and IWM options. Moreover, the proposed rule change would allow investors to better trade and hedge positions in QQQ and IWM options where the strike price is greater than \$200, and ensure that investors in both options are not at a disadvantage simply because of the strike price.

The Exchange believes the proposed rule change is consistent with Section 6(b)(1) of the Act, which provides that the Exchange be organized and have the capacity to be able to carry out the purposes of the Act and the rules and regulations thereunder, and the rules of the Exchange. The rule change proposal allows the Exchange to respond to customer demand to allow QQQ and IWM options to trade in \$1 intervals above a \$200 strike price. The Exchange does not believe that the proposed rule would create additional capacity issues or affect market functionality.

As noted above, ETF options trade in wider \$5 intervals above a \$200 strike price, whereby options at or below a \$200 strike price trade in \$1 intervals. This creates a situation where contracts on the same option class effectively may not be able to execute certain strategies such as, for example, rolling to a higher

strike price, simply because of the \$200 strike price above which options intervals increase by 500%. This proposal remedies the situation by establishing an exception to the current ETF interval regime for QQQ and IWM options to allow such options to trade in \$1 or greater intervals at all strike prices.

The Exchange believes that the proposed rule change, like other strike price programs currently offered by the Exchange, will benefit investors by giving them increased flexibility to more closely tailor their investment and hedging decisions. Moreover, the proposed rule change is consistent with changes adopted by other exchanges.⁷

With regard to the impact of this proposal on system capacity, the Exchange believes it and OPRA have the necessary systems capacity to handle any potential additional traffic associated with this proposed rule change. The Exchange believes that its members will not have a capacity issue as a result of this proposal.

B. Self-Regulatory Organization’s Statement on Burden on Competition

The Exchange does not believe that the proposed rule change to Interpretation and Policy .08(b) to Rule 5.5 will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Rather, the Exchange believes that the proposed rule change will result in additional investment options and opportunities to achieve the investment and trading objectives of market participants seeking efficient trading and hedging vehicles, to the benefit of investors, market participants, and the marketplace in general. Specifically, the Exchange believes that QQQ and IWM options investors and traders will significantly benefit from the availability of finer strike price intervals above a \$200 price point. In addition, the interval setting regime the Exchange proposes to apply to QQQ and IWM options is currently applied to SPY, IVV, and DIA options, which are similarly popular and widely traded ETF products and track indexes at similarly high price levels. Thus, the proposed strike setting regime for QQQ and IWM options will allow options on the most actively traded ETFs with index levels at corresponding price levels to trade pursuant to the same strike setting regime. This will permit investors to employ similar investment

and hedging strategies for each of these options.

C. Self-Regulatory Organization’s Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

- A. By order approve or disapprove such proposed rule change, or
- B. institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission’s internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-CBOE-2019-015 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.
- All submissions should refer to File Number SR-CBOE-2019-015. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission’s internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(5).

⁷ See Securities Exchange Act Release No. 72664 (July 24, 2014), 79 FR 44231 (July 30, 2014) (Notice of Filing of Proposed Rule Change, as Modified by Amendment No. 1, Relating to SPY and DIA Options) (SR-Phlx-2014-46).

those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-CBOE-2019-015 and should be submitted on or before April 8, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁸

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019-04946 Filed 3-15-19; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-85297; File No. SR-NYSECHX-2019-03]

Self-Regulatory Organizations; NYSE Chicago, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Adopt Rules To Establish a Rule Numbering Framework in Connection With the Migration of the Exchange to the NYSE Pillar Platform

March 12, 2019.

Pursuant to Section 19(b)(1) ¹ of the Securities Exchange Act of 1934 (the "Act") ² and Rule 19b-4 thereunder, ³ notice is hereby given that, on March 6, 2019, the NYSE Chicago, Inc. (the "NYSE Chicago" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to adopt rules to establish a rule numbering framework in connection with the migration of the Exchange to the NYSE Pillar platform. The proposed rule change is available on the Exchange's website at www.nyse.com, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to adopt rules to establish a rule numbering framework in connection with the migration of the Exchange to the NYSE Pillar platform ("Pillar"). The Exchange proposes to establish this framework in order to facilitate the amendment of its rule book as the Exchange migrates to Pillar.

In July 2018, the Exchange and its direct parent company were acquired by NYSE Group, Inc. ("Transaction").⁴ As a result of the Transaction, the Exchange became part of a corporate family including five separate registered national securities exchanges.⁵ Following the Transaction, the Exchange continued to operate as a separate self-regulatory organization and with rules, membership rosters and listings distinct from the rules,

membership rosters and listings of the other NYSE Exchanges.

In connection with the Transaction, the Exchange anticipates migrating trading of equities to Pillar, which is an integrated trading technology platform designed to use a single specification for connecting to the equities and options markets operated by the NYSE Exchanges, in the second half of 2019. To that end, the Exchange proposes to adopt the rule numbering framework of the rules governing the NYSE National equities market, which are based on the rule numbering framework of the NYSE Arca equities market.⁶ The Exchange believes that if it and its affiliates are operating on the same trading platform, using the same rule numbering scheme across all markets using the Pillar platform would make it easier for members, the public and the Commission to navigate the rules of each exchange. The Exchange therefore proposes to adopt a framework of rule numbering that is based on the current rules governing the NYSE National equities market: NYSE National Rules 0 through 13.

As proposed, this framework would use the current rule numbering scheme of the rules governing the NYSE National equities market, and would consist of the following proposed rules:

- RULE 0 REGULATION OF THE EXCHANGE AND PARTICIPANTS
- RULE 1 DEFINITIONS
- RULE 2 TRADING PERMITS
- RULE 3 ORGANIZATION AND ADMINISTRATION
- RULE 4 RESERVED
- RULE 5 TRADING ON UNLISTED TRADING PRIVILEGES
- RULE 6 ORDER AUDIT TRAIL
- RULE 7 EQUITIES TRADING
- RULE 8 RESERVED
- RULE 9 RESERVED
- RULE 10 DISCIPLINARY PROCEEDINGS, OTHER HEARINGS AND APPEALS
- RULE 11 BUSINESS CONDUCT
- RULE 12 ARBITRATION
- RULE 13 LIABILITY OF DIRECTORS AND EXCHANGE

The Exchange proposes to establish this framework in order to facilitate the amendment of its rule book.

⁴ See Exchange Act Release No. 83635 (July 13, 2018), 83 FR 34182 (July 19, 2018) (SR-CHX-2018-004); see also Exchange Act Release No. 83303 (May 22, 2018), 83 FR 24517 (May 29, 2018) (SR-CHX-2018-004).

⁵ The Exchange has four registered national securities exchange affiliates: New York Stock Exchange LLC ("NYSE"), NYSE Arca, Inc. ("NYSE Arca"), NYSE National, Inc. ("NYSE National") and NYSE American LLC ("NYSE American") (collectively, the Exchange, NYSE, NYSE Arca, NYSE National, and NYSE American, the "NYSE Exchanges").

⁶ See Securities Exchange Act Release No. 81782 (September 30, 2017), 82 FR 46586 (October 5, 2018) (SR-NYSENat-2017-04). NYSE and NYSE American also filed rule changes to use this rule framework for their equities Pillar rules. See Securities Exchange Act Release Nos. 76803 (December 30, 2015), 81 FR 536 (January 6, 2016) (SR-NYSE-2015-67) (Notice of filing and immediate effectiveness of proposed rule change) and 79242 (November 5, 2016), 81 FR 79081 (November 10, 2016) (SR-NYSEMKT-2016-97) (Notice of filing and immediate effectiveness of proposed rule change).

⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

Additionally, and as described in greater detail below, the Exchange proposes to (i) relocate rules relating to compliance with National Market System Plan Governing the Consolidated Audit Trail (the “CAT NMS Plan”),⁷ which are currently set forth in Article 23, Rules 1 through 12 (the “Compliance Rules”), to proposed Rules 6.6800 through 6.6895, without any substantive changes to the current rules other than updating cross references to reflect the proposed renumbered Compliance Rules; and (ii) relocate rules relating to potential disputes related to CAT Fees charged to Industry Members (“Fee Dispute Rule”), which are currently set forth in Article 23, Rule 13, to proposed Rule 6.6900, without any substantive changes to the current rules other than updating a cross reference to reflect the proposed renumbered Fee Dispute Rule. None of these are novel rules and are simply renumbered Exchange rules (the Compliance Rules and Fee Dispute Rule).

Proposed Rule 6.6800 Series (Compliance Rules)

As noted above, the Exchange proposes to renumber its existing Compliance Rules relating to the CAT NMS Plan under Rule 6 without any substantive changes other than updating cross references to reflect the proposed renumbered Compliance Rules. The Compliance Rules require Industry Members to comply with the provisions of the CAT NMS Plan.⁸ The Compliance Rules include twelve rules covering the following areas: (1) Definitions; (2) clock synchronization; (3) Industry Member data reporting; (4) customer information reporting; (5) Industry Member information reporting; (6) time stamps; (7) clock synchronization rule violations; (8) connectivity and data transmission; (9) development and testing; (10) recordkeeping; (11) timely, accurate and complete data; and (12) compliance dates.

In moving the Compliance Rules to Rule 6, the Exchange proposes to renumber Article 23, Rules 1 through 12, as proposed Rules 6.6800 through

6.6895, which is based in part on the NYSE National rule numbering for its Compliance Rules, but not make any substantive changes to those rules. The proposed sub-numbering for the Compliance Rules (*i.e.*, 6800–6895) mirrors the rule-numbering framework for the CAT NMS Plan Compliance Rules on FINRA, NYSE, and NYSE National and includes a sub-section rule heading of “Rule 6.6800 Consolidated Audit Trail Compliance Rule.”

Proposed Rule 6.6900 (Consolidated Audit Trail—Fee Dispute Resolution)

As noted above, the Exchange proposes to renumber its existing Fee Dispute Rule relating to the CAT NMS Plan under Rule 6 without any substantive changes other than updating a cross reference to reflect the proposed renumbered Fee Dispute Rule.⁹ In moving the Fee Dispute Rule to Rule 6, the Exchange proposes to renumber Article 23, Rule 13, as proposed Rule 6.6900, which is based on the NYSE National rule numbering for its Fee Dispute Rule. Proposed Rule 6.6900 establishes the procedures for resolving potential disputes related to CAT Fees charged to Industry Members. Section 11.5 of the CAT NMS Plan requires participants to that plan to adopt rules requiring that disputes with respect to fees charged to Industry Members pursuant to the CAT NMS Plan be determined by the Operating Committee or Subcommittee. Section 11.5 of the CAT NMS Plan also states that decisions by the Operating Committee or Subcommittee on such matters will be binding on Industry Members, without prejudice to the right of any Industry Member to seek redress from the SEC pursuant to SEC Rule 608 or in any other appropriate forum. The Commission has approved industry-wide rules that set forth such fee dispute procedures.¹⁰

Proposed Rule 6.6900 sets forth the Exchange’s procedures to resolve disputes initiated by an Industry Member with respect to CAT fees and is based on NYSE National Rule 6.6900

specifically, and the rules of other exchanges generally, without any substantive differences. The proposed sub-numbering for the Fee Dispute Rule (*i.e.*, 6900) mirrors the rule-numbering framework for the CAT NMS Plan Fee Dispute Rule on FINRA, NYSE, and NYSE National.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the “Act”),¹¹ in general, and furthers the objectives of Section 6(b)(1),¹² in particular, in that it enables the Exchange to be so organized as to have the capacity to be able to carry out the purposes of the Exchange Act and to comply, and to enforce compliance by its members and persons associated with its members, with the provisions of the Exchange Act, the rules and regulations thereunder, and the rules of the Exchange.

Specifically, the proposed rule change to adopt a rule numbering framework is a non-substantive change that does not impact trading on the Exchange. The Exchange believes that the proposed rule change would enable the Exchange to continue to be so organized as to have the capacity to carry out the purposes of the Exchange Act and comply and enforce compliance with the provisions of the Exchange Act by its members and persons associated with its members, because adopting a common framework of rule numbers for the equity markets that operate on the Pillar trading platform will better allow members, regulators, and the public to navigate the Exchange’s rulebook and better understand how equity trading is conducted on the Exchange.

B. Self-Regulatory Organization’s Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not designed to address any competitive issue but rather to adopt a new rule numbering framework to support the Exchange’s amendment of its rule book as the Exchange migrate to the Pillar trading platform. The Exchange believes that the proposed rule change would promote consistency and transparency on both the Exchange and its affiliates, the NYSE Exchanges, thus making the Exchange’s rules easier to navigate.

⁷ The CAT NMS Plan is designed to create, implement and maintain a consolidated audit trail (“CAT”) that would capture customer and order event information for orders in NMS Securities and OTC Equity Securities, across all markets, from the time of order inception through routing, cancellation, modification, or execution in a single consolidated data source. Each Participant of the Plan is required to enforce compliance by its Industry Members, as applicable, with the provisions of the Plan, by adopting a Compliance Rule applicable to their Industry Members.

⁸ Unless otherwise specified, capitalized terms used are defined as set forth herein, the CAT Compliance Rule Series or in the CAT NMS Plan.

⁹ See Securities Exchange Act Release No. 81616 (September 14, 2017), 82 FR 44010 (September 20, 2017) (SR-CHX-2017-11; SR-FINRA-2017-20) (Order Approving Proposed Rule Changes to Adopt a CAT Fee Dispute Resolution Process).

¹⁰ See Securities Exchange Act Release No. 81500 (August 30, 2017), 82 FR 42143 (September 6, 2017) (SR-BatsBYX-2017-13; SR-BatsBZX-2017-39; SR-BatsEDGA-2017-14; SR-BatsEDGX-2017-24; SR-BOX-2017-19; SR-CBOE-2017-043; SR-IEX-2017-21; SR-ISE-2017-52; SR-MRX-2017-08; SR-MIAX-2017-24; SR-NASDAQ-2017-059; SR-BX-2017-029; SR-GEMX-2017-059; SR-PHLX-2017-47; SR-NYSE-2017-24; SR-NYSEArca-2017-60; SR-NYSEMKT-2017-31) (Order Approving Proposed Rule Changes to Adopt a CAT Fee Dispute Resolution Process).

¹¹ 15 U.S.C. 78f(b).

¹² 15 U.S.C. 78f(b)(1).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act¹³ and Rule 19b-4(f)(6) thereunder.¹⁴ Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6)(iii) thereunder.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)¹⁵ of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-NYSECHX-2019-03 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-NYSECHX-2019-03. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSECHX-2019-03 and should be submitted on or before April 8, 2019.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁶

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019-04949 Filed 3-15-19; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-85293; File No. SR-BOX-2019-05]

Self-Regulatory Organizations; BOX Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the BOX Fee Schedule

March 12, 2019.

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 February 28, 2019, BOX Exchange LLC (“Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend to BOX Fee Schedule. The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's internet website at <http://boxoptions.com>.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to add Section VIII.B. (Fee Disputes) to the BOX Fee Schedule. Specifically, the Exchange proposes that all fee disputes concerning fees which are billed by the Exchange must be submitted to the Exchange in writing and must be accompanied by supporting documentation. All fee disputes must be submitted no later than sixty (60) calendar days after receipt of billing invoice. The Exchange notes that similar language exists at other options exchanges in the industry.³

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Nasdaq ISE, LLC (“ISE”) Options 7 Pricing Schedule Section 1(b). See also Miami International Securities Exchange LLC (“MIAX”) Fee Schedule cover page.

¹³ 15 U.S.C. 78s(b)(3)(A)(iii).

¹⁴ 17 CFR 240.19b-4(f)(6).

¹⁵ 15 U.S.C. 78s(b)(2)(B).

¹⁶ 17 CFR 200.30-3(a)(12).

The Exchange provides Participants with both daily and monthly fee reports and thus believes Participants should be aware of any potential billing errors within sixty calendar days of receiving an invoice. Requiring that Participants dispute an invoice within this time period will encourage them to promptly review their invoices so that any disputed charges can be addressed in a timely manner while the information and data underlying those charges (e.g. applicable fees and order information) is still easily and readily available. This practice will avoid issues that may arise when Participants do not dispute an invoice in a timely manner, and will conserve Exchange resources that would have to be expended to resolve untimely billing disputes. The Exchange notes that this type of provision is common among other exchanges, which require that Participants dispute invoices within sixty days.⁴

The sixty days would first apply to invoices related to transactional billing in March 2019 and would apply thereafter. The Exchange proposes to apply the billing policy to all charges reflected in the BOX Fee Schedule.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act,⁵ in general, and Section 6(b)(5) of the Act,⁶ in particular, in that it is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general protect investors and the public interest, by providing a uniform practice for disputing fees.

The Exchange believes the requirement that all billing disputes must be submitted, in writing, and with supporting documentation, within sixty calendar days from receipt of the invoice is reasonable and in the public interest because the Exchange provides ample tools to properly and swiftly monitor and account for various charges incurred in a given month. Specifically, the Exchange sends a monthly PDF invoice to all billing contacts outlining the charges, as well as daily and monthly transaction details to assist with monitoring trade-related charges. Moreover, the proposed fee dispute language, which will lower the Exchange's administrative burden, is substantially similar to billing dispute language at other options exchanges.⁷

Also, the Exchange's administrative costs would be lowered as a result of this policy because staff resources would not be diverted to review untimely requests regarding billing.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange notes note believe that the proposed change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The billing policy would apply uniformly to all BOX Participants. As discussed herein, the policy is similar to policies in place by other options exchanges.⁸

Further, this proposal would provide a cost savings to the Exchange in that it would alleviate processes related to the untimely review of billing disputes which divert staff resources away from the Exchange's regulatory and business purposes.

As such, the Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to 19(b)(3)(A) of the Act⁹ and Rule 19b-4(f)(6)¹⁰ thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in

furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-BOX-2019-05 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-BOX-2019-05. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-BOX-2019-05 and should be submitted on or before April 8, 2019.

⁴ *Id.*

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(5).

⁷ See *supra* note 3.

⁸ *Id.*

⁹ 15 U.S.C. 78s(b)(3)(A).

¹⁰ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹¹

Eduardo A. Aleman,

Deputy Secretary.

[FR Doc. 2019-04947 Filed 3-15-19; 8:45 am]

BILLING CODE 8011-01-P

SMALL BUSINESS ADMINISTRATION

SBA Guaranteed Business Loans to Cooperatives

AGENCY: U.S. Small Business Administration.

ACTION: Notice of change of meeting.

SUMMARY: The Small Business Administration (SBA) published a notice in the **Federal Register** on February 28, 2019, announcing that the Office of Financial Assistance would be holding two public forums with members of the general public on SBA-guaranteed business loans to cooperatives. The purpose of the public forums is to provide an opportunity for members of the public to present their views to SBA on practical alternatives to satisfying SBA's personal guarantee requirement for small businesses with cooperative ownership. Today's notice announces the cancellation of the public forum that was going to be held in Kansas City, Missouri, on March 19, 2019. A teleconference, to allow more attendees to participate, will be conducted in its place.

DATES: The public forum will take place via teleconference on March 29, 2019, from 2:00 p.m. to 3:30 p.m. Eastern Daylight Saving Time. Please note the registration instructions under the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: Thomas Heou, SBA Office of Financial Assistance, thomas.heou@sba.gov or (202) 205-9168.

SUPPLEMENTARY INFORMATION: Pursuant to Sec. 862 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232), SBA is holding two public forums to discuss practical alternatives to satisfy SBA's personal guarantee requirement on SBA-guaranteed loans to cooperatives. The first public forum was held in Washington, DC on March 12, 2019. The second public forum will be held via teleconference on March 29, 2019, at the time specified above.

This is an opportunity for members of the public to present their views to SBA on practical alternatives that would satisfy SBA's personal guarantee

requirements. No policy recommendations or views will be offered by SBA at the forum. Individual speakers will be allowed to make oral comments limited to 3-5 minutes each, depending on the number of participants interested in speaking.

All interested parties must register in advance to participate in the teleconference. Attendance is limited to the first 200 individuals who register to attend.

Participants interested in attending may register for the conference at <http://ems8.intellor.com/do=register&t=1&p=813511>. After completing the registration, the participant will receive an email containing a personalized access link to participate in the teleconference.

Dianna L. Seaborn,

Director, Office of Financial Assistance.

[FR Doc. 2019-04940 Filed 3-15-19; 8:45 am]

BILLING CODE 8025-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. EP 526 (Sub-No. 12)]

Notice of Railroad-Shipper Transportation Advisory Council Vacancy

AGENCY: Surface Transportation Board (Board).

ACTION: Notice of upcoming vacancy on the Railroad-Shipper Transportation Advisory Council (RSTAC) and solicitation of nominations.

SUMMARY: The Board hereby gives notice of an upcoming vacancy on RSTAC for a small shipper representative. The Board seeks suggestions for candidates to fill this vacancy.

DATES: Nominations are due on April 17, 2019.

ADDRESSES: Suggestions may 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 at the E-Filing link on the Board's website, at <http://www.stb.gov>. Any person submitting a filing in the traditional paper format should send an original and 10 copies to: Surface Transportation Board, Attn: Docket No. EP 526 (Sub-No. 12), 395 E Street SW, Washington, DC 20423-0001 (if sending via express company or private courier, please use zip code 20024). Please note that submissions will be posted to the Board's website under Docket No. EP 526 (Sub-No. 12).

FOR FURTHER INFORMATION CONTACT: Katherine Bourdon at (202) 245-0285.

Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.

SUPPLEMENTARY INFORMATION: The Board, created in 1996 to take over many of the functions previously performed by the Interstate Commerce Commission, exercises broad authority over transportation by rail carriers, including regulation of railroad rates and service (49 U.S.C. 10701-47, 11101-24), the construction, acquisition, operation, and abandonment of rail lines (49 U.S.C. 10901-07), as well as railroad line sales, consolidations, mergers, and common control arrangements (49 U.S.C. 10902, 11323-27).

The ICC Termination Act of 1995 (ICCTA), enacted on December 29, 1995, established RSTAC to advise the Board's Chairman, the Secretary of Transportation, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives with respect to rail transportation policy issues RSTAC considers significant. RSTAC focuses on issues of importance to small shippers and small railroads, including car supply, rates, competition, and procedures for addressing claims. ICCTA instructs RSTAC to endeavor to develop private-sector mechanisms to prevent, or identify and address, obstacles to the most effective and efficient transportation system practicable. The members of RSTAC also prepare an annual report concerning RSTAC's activities. RSTAC is not subject to the Federal Advisory Committee Act.

RSTAC's 15 appointed members consist of representatives of small and large shippers, and small and large railroads. In addition, members of the Board and the Secretary of Transportation serve as ex officio members. Of the 15 appointed members, nine are voting members and are appointed from senior executive officers of organizations engaged in the railroad and rail shipping industries. At least four of the voting members must be representatives of small shippers as determined by the Chairman, and at least four of the voting members must be representatives of Class II or III railroads. The remaining six members to be appointed—three representing Class I railroads and three representing large shipper organizations—serve in a nonvoting, advisory capacity, but may participate in RSTAC deliberations.

Meetings of RSTAC are required by statute to be held at least semi-annually.

¹¹ 17 CFR 200.30-3(a)(12).

In recent years, RSTAC has met four times a year. Meetings are generally held at the Board's headquarters in Washington, DC, although some meetings are held in other locations.

The members of RSTAC receive no compensation for their services and are required to provide for the expenses incidental to their service, including travel expenses, as the Board cannot provide for these expenses. RSTAC may solicit and use private funding for its activities, again subject to certain restrictions in ICCTA. Currently, RSTAC members have elected to submit annual dues to pay for RSTAC expenses.

RSTAC members must be citizens of the United States and represent as broadly as practicable the various segments of the railroad and rail shipper industries. They may not be full-time employees of the United States. According to revised guidance issued by the Office of Management and Budget, it is permissible for federally registered lobbyists to serve on advisory committees, such as RSTAC, as long as they do so in a representative capacity, rather than an individual capacity. *See Revised Guidance on Appointment of Lobbyists to Fed. Advisory Comms., Bds., & Comm'ns.*, 79 FR 47,482 (Aug. 13, 2014). Members of RSTAC are appointed to serve in a representative capacity.

Each RSTAC member is appointed by the Chairman for a term of three years. A member may serve after the expiration of his or her term until a successor has taken office. No member will be eligible to serve in excess of two consecutive terms.

Due to the upcoming expiration of a small shipper representative's second term, a vacancy will exist on RSTAC. The new small shipper representative will serve for three years and may be eligible to serve a second three-year term following the end of their first term.

Suggestions for candidates to fill the vacancy should be submitted in letter form, identifying the name of the candidate, providing a summary of why the candidate is qualified to serve on RSTAC, and containing a representation that the candidate is willing to serve as an RSTAC member effective immediately upon appointment. RSTAC candidate suggestions should be filed with the Board by April 17, 2019. Members selected to serve on RSTAC are chosen at the discretion of the Board Chairman. Please note that submissions will be posted on the Board's website under Docket No. EP 526 (Sub-No. 12) and can also be obtained by contacting the Office of Public Assistance,

Governmental Affairs, and Compliance at RCPA@stb.gov or (202) 245-0238.

Authority: 49 U.S.C. 1325.

Decided: March 13, 2019.

By the Board, Allison Davis, Acting Director, Office of Proceedings.

Brendetta Jones,

Clearance Clerk.

[FR Doc. 2019-05019 Filed 3-15-19; 8:45 am]

BILLING CODE 4915-01-P

TENNESSEE VALLEY AUTHORITY

Meeting of the Regional Resource Stewardship Council

AGENCY: Tennessee Valley Authority (TVA).

ACTION: Notice of meeting.

SUMMARY: The TVA Regional Resource Stewardship Council (RRSC) will hold a meeting on Wednesday and Thursday, April 3-4, 2019, to consider various matters. The RRSC was established to advise TVA on its natural resources and stewardship activities and the priority to be placed among competing objectives and values. Notice of this meeting is given under the Federal Advisory Committee Act (FACA).

DATES: The meeting will be held April 3-4, 2019. Wednesday's meeting will run from 8:30 a.m. to 11:45 a.m., CDT, and Thursday's meeting will run from 8:30 a.m. to 11:30 a.m., CDT.

ADDRESSES: The meeting will be held at the Kentucky Dam Resort Conference Center, 113 Administrative Drive, Gilbertsville, Kentucky. An individual requiring special accommodation for a disability should let the contact below know at least a week in advance.

FOR FURTHER INFORMATION CONTACT: Cathy Coffey, 865-632-4494, ccoffey@tva.gov.

SUPPLEMENTARY INFORMATION: The meeting agenda includes the following items:

1. Introductions
2. Updates on recent navigation and flood control challenges
3. Natural Resources Stewardship activities
4. Presentation on upcoming bank erosion study
5. Presentation on Asian Carp management plan
6. Public Comments
7. Council Discussion and Advice

The meeting is open to the public. Comments from the public will be accepted Thursday, April 4 at 9:30 a.m., CDT, for 60 minutes. Registration to speak is from 8:00 a.m. to 9:00 a.m., CDT, at the door. TVA will set oral

comment time limits once registered. Handout materials should be limited to one printed page. Written comments may be sent to the RRSC at any time through links on TVA's website at www.tva.com/rrsc or by mailing to the Regional Resource Stewardship Council, Tennessee Valley Authority, 400 West Summit Hill Drive, WT 9D, Knoxville, Tennessee 37902.

Dated: March 11, 2019.

Joseph J. Hoagland,

Vice President, Enterprise Relations and Innovation, Tennessee Valley Authority.

[FR Doc. 2019-04903 Filed 3-15-19; 8:45 am]

BILLING CODE 8120-08-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No: FAA-2019-0170]

Notice of Opportunity: Criteria and Application Procedures for the Military Airport Program (MAP) for Fiscal Year 2019

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

ACTION: Notice.

SUMMARY: The FAA is announcing the criteria, application procedures, and schedule for the Military Airport Program (MAP), to enable the Secretary of Transportation to designate a maximum of 15 joint-use, or former military airports, to participate in the MAP for the purposes of capital development funding assistance.

DATES: Applications must be received on or before May 2, 2019.

ADDRESSES: Airport sponsors must submit applications for the Fiscal Year (FY) 2019 MAP to the appropriate Airports District Office (ADO) or Regional Office (RO) if there is no ADO. Applicants can find the address for their local office on the FAA website.¹

FOR FURTHER INFORMATION CONTACT: For information concerning this notice, contact Terri A.R. Kett, Airport Improvement Program (AIP) Branch; Airports Financial Assistance Division; Office of Airport Planning and Programming. Telephone: 202-267-4374. Email: terri.kett@faa.gov.

SUPPLEMENTARY INFORMATION:

General Description of the Program

49 U.S.C. 47117 designates a 4% set-aside of AIP discretionary funds that the FAA may use toward specific projects at

¹ http://www.faa.gov/airports/news_information/contact_info/regional/.

MAP designated airports to successfully transition from military to civilian use. For FY19, approximately \$8 million will be available to the MAP program. The MAP is open to civil airport sponsors of joint-use military airfields or former military airports that are included in the FAA's National Plan of Integrated Airport Systems (NPIAS). The FAA administers the AIP, including MAP, in accordance with FAA Order 5100.38D Change 1, *Airport Improvement Program Handbook*.²

Consideration

Pursuant to 49 U.S.C. 47118(c), the Secretary may consider only current or former military airports for designation if a grant will:

1. Reduce delays at an airport with more than 20,000 hours of annual delays in commercial passenger aircraft takeoffs and landings;
2. Enhance airport and air traffic control system capacity in a metropolitan area or reduce current and projected flight delays; or
3. Preserve or enhance minimum airfield infrastructure facilities at former military airports to support emergency diversionary operations for transoceanic flights in locations—
 - within U.S. jurisdiction or control; and
 - where there is a demonstrable lack of diversionary airports within the distance or flight-time required by regulations governing transoceanic flights.

Designation Authority

Under 49 U.S.C. 47118, the FAA may designate up to 15 current or former military airports to participate in the MAP in a fiscal year. Three of the 15 airports may be general aviation (GA) airports and the remaining 12 must be commercial service or reliever airports. In FY 2019, there are two GA slots and 10 commercial service/reliever slots available in the program.

Designation Duration

The FAA has the option to designate an airport in the MAP for one to five fiscal years. The FAA will evaluate the conversion needs of the airport, in the sponsor's capital development plan, to determine the appropriate length of designation.

Redesignation

Previously designated airports may apply for redesignation for subsequent terms not to exceed five fiscal years. Airports must still meet MAP eligibility

requirements and have remaining MAP eligible projects not previously funded by the FAA. Applications evaluated in terms of the remaining projects, specifically fundable only under the MAP, because redesignated airports generally have fewer conversion needs than new candidates do. The FAA's goal is to graduate MAP airports to regular AIP participation by successfully converting participating airports to civilian airport operations.

MAP Funding Limitations

The amount of annual funding is limited to the 4% set-aside of AIP discretionary funds. Designated airports may receive up to \$7 million per fiscal year for terminal building projects and up to \$7 million to preserve or enhance minimum airfield infrastructure or, construct parking lots, fuel farms, utilities, hangars, and air cargo terminals. Hangars and air cargo terminals may not be larger than 50,000 square feet. MAP designated airport projects are not limited to MAP funding; they may also qualify for other AIP funding if all AIP associated project eligibility and justification requirements are met.

Designation Requirements

Current or former military airports are eligible for designation if they meet the following statutory requirements:

1. The airport is a former military installation closed or realigned under—
 - 10 U.S.C 2687 as excess property. These are bases announced for closure by the Department of Defense after September 30, 1977;
 - Section 201 of the Defense Authorization Amendments and Base Closure and Realignment Act; or
 - Section 2905 of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687, note);
 2. The airport is a military installation with both military and civil aircraft operations as a commercial service or reliever airport (also called a joint-use airport); or
 3. The airport is a former military installation that, at any time after December 31, 1965, was owned and operated by the Department of Defense and is a nonhub primary airport.
- General aviation airports can only qualify under requirement 1 of this section.

Candidate Evaluation Criteria

The airport must meet all of the requirements of 49 U.S.C. 47118 as well as the MAP requirements listed in FAA Order 5100.38D Change 1, *Airport Improvement Program* (Table 6–14, MAP Requirements).

The FAA will evaluate applications based on (but not limited to) the following criteria:

- The potential of the airport to become a viable civilian airport that will enhance system capacity or reduce delays.
- Compatibility of airport roles and the ability of the airport to provide an adequate airport facility;
- Level of operations at the congested airport and the candidate airport;
- The capability of the airport to serve aircraft that otherwise must use a congested airport;
- Landside surface access;
- Airport operational capability, including peak hour and annual capacities;
- Potential of other metropolitan area airports to relieve the congested airport;
- Ability to satisfy, relieve, or meet air cargo demand within the metropolitan area;
- Forecast aircraft and passenger levels, type of commercial service anticipated, *i.e.*, scheduled or chartered commercial service;
- Type and capacity of aircraft projected to serve the airport ;
- The potential for the airport to be served by aircraft or users, including the airlines serving the congested airport;
- Ability to replace an existing commercial service or reliever airport serving the area; and

Application Procedures and Required Documentation

- Airport sponsors applying for designation, or redesignation, must complete and submit a Standard Form (SF) 424, "Application for Federal Assistance",³ along with any supporting documentation. A fillable SF 424 form can be downloaded at <https://www.faa.gov/airports/resources/forms/?sect=aip,-payments>. The SF 424 form must be filled out completely and include the following: Item 1. Type of Submission—Mark as a "Preapplication";
- Item 2. Type of Application—Mark as "New";
- Item 15. Descriptive Title of Applicant's Project—Enter "Designation (or Redesignation) to the Military Airport Program"; and
- Item 18. Estimated Funding—Enter the total amount of MAP funding requests anticipated over the entire term in the application.

Supporting Documentation

1. Identification as a joint-use or former military airport. The application

² Available online at: https://www.faa.gov/airports/aip/aip_handbook/.

³ Available online at: <https://www.faa.gov/airports/resources/forms/?sect=aip,payments>.

must identify the airport as either a joint-use or former military airport. For former military airports, indicate which designation requirement the airport meets under 49 U.S.C. 47118(a).

2. Qualifications for the MAP. The application must answer the following questions:

a. Does the airport meet the definition of a "public airport" as defined in 49 U.S.C. 47102(21)?

b. Is the airport sponsor an eligible airport "sponsor," as defined in 49 U.S.C. 47102(26)?

c. Is the required environmental review for civil reuse or joint-use of the military airfield completed?

- The environmental review is necessary to convey the property, enter into a long-term lease, or finalize a joint-use agreement.

- The military department conveying or leasing the property, or entering into a joint-use agreement, has the lead responsibility for this environmental review.

- Environmental reviews for each specific MAP project are separate processes. These environmental reviews must meet the normal AIP requirements and timeframes.

- Does the sponsor have good title? For former military airports, the sponsor must hold or will hold satisfactory title, a long-term lease in furtherance of conveyance of property for airport purposes, or a long-term interim lease more than 20 years or longer.

- Documentation that the Federal government has accepted an application for surplus or BRAC airport property is sufficient to meet this requirement.

d. For current military airports, does the sponsor have an existing joint-use agreement with the military department having jurisdiction over the airport?

- A copy of the existing joint-use agreement must be submitted with the application.

e. Does the sponsor have a five-year capital improvement plan that includes all AIP eligible projects that can be funded with MAP or AIP?

f. Does the airport have an FAA-approved airport layout plan (ALP)?

g. For commercial service airports, does the sponsor have a current business/marketing plan or strategy report?

3. Other Factors. The application should include information on the items below:

a. Identify the existing and potential levels of visual or extra instrument operations and aeronautical activity at the current or former military airport and, if applicable, the congested airport.

b. Explain how the airport contributes to the air traffic system or airport system capacity.

c. Provide the revenue passenger and air cargo levels (if commercial air carriers serve the airport).

d. Describe the airport's projected role and development needs for transitioning from military to civilian use. Explain how development projects would either reduce delays at an airport with more than 20,000 hours of annual delays in commercial passenger aircraft takeoffs and landings; enhance capacity in a metropolitan area, or reduce current and projected flight delays.

e. Describe the existing airspace capacity. Explain how anticipated new operations would affect the surrounding airspace, congestion, and air traffic flow patterns in the metropolitan area in or near the airport.

f. Describe the airport sponsor's 5-year CIP. The CIP must identify the safety, capacity, and conversion related projects, estimated costs, and projected construction schedule.

g. Describe projects that are consistent with the role of the airport and effectively contribute to the joint-use or civil conversion of the airfield. The projects (e.g., safety-related, conversion-related, and/or capacity-related) must be identified and fully explained based on the sponsor's planned airport use. Each project that may be eligible under MAP must be clearly indicated and include the following information:

Airside

- Planned safety modifications including pavement, marking, lighting, drainage, or other structures or features to meet civil standards for approach, departure, and other protected airport surfaces as described in title 14 CFR part 77, or airport design standards set forth in FAA Advisory Circular 150/5300-13A;

- Planned construction of facilities, such as passenger terminal gates, aprons for passenger terminals, taxiways to new terminal facilities, aircraft parking, and cargo facilities to accommodate civil use;

- Planned utility upgrades serving the civilian function and independent operation including: Electrical, mechanical, communications lines, water, gas, sewer, storm drainage;

- Planned acquisition, construction, rehabilitation, or modification of facilities and equipment including: Snow removal equipment, aircraft rescue and fire fighting buildings and equipment, security equipment, lighting vaults, and reconfiguration or relocation of eligible buildings for more efficient civil airport operations;

- Planned modifications of fuel farms to accommodate civil aviation use;

- Planned land acquisition for runway protection zones, other approach protection, or airport development; and

- Planned modifications, which will permit the airfield to accommodate GA users.

Landside

- Planned construction, improvement, or repair of surface parking areas;

- Planned construction, improvement, or repair of access roads;

- Planned construction, improvement, or repair of facilities, such as passenger and/or cargo terminals buildings and hangars.

h. Evaluate the ability of surface transportation facilities (e.g., road, rail, high-speed rail, and/or maritime) to provide intermodal connections.

i. Describe the type and level of aviation (and community) interest in the civil use of the current or former military airport.

j. Provide one copy of the FAA-approved ALP with each application. The ALP must clearly describe capacity and conversion-related projects. Airport sponsors should also include other information, such as project cost(s), schedule, project justification(s), other project related maps and drawings showing the project location(s), and any other supporting documentation that would make the airport sponsor's application easier to understand. Airport sponsors may also include photos that further describe the airport, projects, and otherwise clarify certain aspects of the application. These maps and ALPs should be cross-referenced with the project costs and descriptions noted elsewhere in the application.

Redesignation Applications

Airport sponsors applying for redesignation to the MAP must submit the same information required of new candidates and must answer the following questions:

1. Why is redesignation needed to accomplish the transition from military to civilian use?

2. Why funding of eligible projects under other categories of AIP, or other sources of funding, would not accomplish the development needs of the airport?

This notice is issued pursuant to title 49 U.S.C. 47118. Issued from Washington, DC, on March 13, 2019.

James A. Johnson,

Acting Director, Office of Airport Planning and Programming.

[FR Doc. 2019-05001 Filed 3-15-19; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION**[Docket No. DOT–OST–2004–16951]****Agency Request for Renewal of a Previously Approved Information Collection: Exemptions for Air Taxi Operations****AGENCY:** Office of the Secretary, DOT.**ACTION:** Notice and request for comments.

SUMMARY: The Department of Transportation (DOT) invites public comments about our intention to request the Office of Management and Budget (OMB)'s approval to renew an information collection. The collection involves a classification of air carriers known as air taxi operators and their filings of a one-page form that enables them to obtain economic authority from DOT. The information to be collected is necessary for DOT to determine whether an air taxi operator meets DOT's criteria for an economic authorization in accordance with DOT rules. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Written comments should be submitted by May 17, 2019.

ADDRESSES: You may submit comments [identified by Docket No. DOT–OST–2004–16951] through one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the online instructions for submitting comments.

- *Fax:* 1–202–493–2251.

- *Mail or Hand Delivery:* Docket Operations Office, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

FOR FURTHER INFORMATION CONTACT: Barbara Snoden, (202) 366–4834, Office of Aviation Analysis, Office of the Secretary, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2105–0565.

Title: Exemptions for Air Taxi Operations.

Form Numbers: OST Form 4507.

Type of Review: Renewal of an information collection.

Background: Part 298 of Title 14 of the Code of Federal Regulations, Exemptions for Air Taxi Registration, establishes a classification of air carriers known as air taxi operators that offer on-demand passenger service. The regulation exempts these small operators from certain provisions of the

Federal statute to permit them to obtain economic authority by filing a one-page, front and back, OST Form 4507, Air Taxi Operator Registration, and Amendments under Part 298 of DOT's Regulations.

DOT expects to receive 200 new air taxi registrations and 2,200 amended air taxi registrations each year, resulting in 2,400 total respondents. Further, DOT expects filers of new registrations to take 1 hour to complete the form, while it should only take 30 minutes to prepare amendments to the form. Thus, the total annual burden is expected to be 1,300 hours.

Respondents: U.S. air taxi operators.

Number of Respondents: 2,400.

Frequency: On occasion.

Number of Responses: 2,400.

Total Annual Burden: 1,300 hours.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for [your office]'s performance; (b) the accuracy of the estimated burden; (c) ways for DOT to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued in Washington, DC, on March 12, 2019.

Lauralyn J. Remo,

Chief, Air Carrier Fitness Division, Office of Aviation Analysis.

[FR Doc. 2019–04997 Filed 3–15–19; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF THE TREASURY**Office of Foreign Assets Control****Notice of OFAC Sanctions Actions**

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S.

persons are generally prohibited from engaging in transactions with them.

DATES: See **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT:

OFAC: Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490; Assistant Director for Licensing, tel.: 202–622–2480; Assistant Director for Regulatory Affairs, tel.: 202–622–4855; or the Department of the Treasury's Office of the General Counsel: Office of the Chief Counsel (Foreign Assets Control), tel.: 202–622–2410.

SUPPLEMENTARY INFORMATION:**Electronic Availability**

The Specially Designated Nationals and Blocked Persons List and additional information concerning OFAC sanctions programs are available on OFAC's website (<https://www.treasury.gov/ofac>).

Notice of OFAC Actions

On February 15, 2019, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following persons are blocked under the relevant sanctions authorities listed below.

Individuals

1. CRISTOPHER FIGUERA, Manuel Ricardo, Caracas, Capital District, Venezuela; DOB 08 Nov 1963; Gender Male; Cedula No. 8375799 (Venezuela) (individual) [VENEZUELA].

Designated pursuant to section 1(a)(ii)(C) of Executive Order 13692 of March 8, 2015, "Blocking Property and Suspending Entry of Certain Persons Contributing to the Situation in Venezuela" (E.O. 13692), as amended by Executive Order 13857 of January 25, 2019, "Taking Additional Steps To Address the National Emergency With Respect to Venezuela," (E.O. 13857) for being a current or former official of the Government of Venezuela.

2. RODRIGUEZ MUCURA, Hildemaro Jose (a.k.a. MUCURA, Ildemaro Jose; a.k.a. RODRIGUEZ MUCURA, Ildemaro Jose), Caracas, Capital District, Venezuela; DOB 06 Jun 1977; Gender Male; Cedula No. 13432397 (Venezuela) (individual) [VENEZUELA].

Designated pursuant to section 1(a)(ii)(C) of E.O. 13692, as amended by E.O. 13857, for being a current or former official of the Government of Venezuela.

3. HERNANDEZ DALA, Ivan Rafael (a.k.a. HERNANDEZ DALA, Ivan; a.k.a. HERNANDEZ, Ivan), Caracas, Capital District, Venezuela; DOB 18 May 1966; citizen Venezuela; Gender Male; Cedula No. 6961149 (Venezuela) (individual) [VENEZUELA].

Designated pursuant to section 1(a)(ii)(C) of E.O. 13692, as amended by E.O. 13857, for being a current or former official of the Government of Venezuela.

4. BASTARDO MENDOZA, Rafael Enrique (a.k.a. BASTARDO, Rafael), Caracas, Capital

District, Venezuela; DOB 22 Sep 1978; citizen Venezuela; Gender Male; Cedula No. 14335819 (Venezuela) (individual) [VENEZUELA].

Designated pursuant to section 1(a)(ii)(C) of E.O. 13692, as amended by E.O. 13857, for being a current or former official of the Government of Venezuela.

5. QUEVEDO FERNANDEZ, Manuel Salvador (a.k.a. QUEVEDO, Manuel), Capital District, Venezuela; DOB 01 Mar 1967; citizen Venezuela; Gender Male; Cedula No. 9705800 (Venezuela); Passport D0131415 (Venezuela); alt. Passport 040236069 (Venezuela); alt. Passport 6252002 (Venezuela) (individual) [VENEZUELA].

Designated pursuant to section 1(a)(ii)(C) of E.O. 13692, as amended by E.O. 13857, for being a current or former official of the Government of Venezuela.

Dated: February 15, 2019.

Andrea Gacki,

Director, Office of Foreign Assets Control.

[FR Doc. 2019-04933 Filed 3-15-19; 8:45 am]

BILLING CODE 4810-AL-P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Actions

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

DATES: See **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: OFAC: Associate Director for Global Targeting, tel.: 202-622-2420; Assistant Director for Sanctions Compliance & Evaluation, tel.: 202-622-2490; Assistant Director for Licensing, tel.: 202-622-2480; Assistant Director for Regulatory Affairs, tel.: 202-622-4855; or the Department of the Treasury's Office of the General Counsel: Office of the Chief Counsel (Foreign Assets Control), tel.: 202-622-2410.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The Specially Designated Nationals and Blocked Persons List and additional information concerning OFAC sanctions

programs are available on OFAC's website (<https://www.treasury.gov/ofac>).

Notice of OFAC Action(s)

On February 25, 2019, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following persons are blocked under the relevant sanctions authorities listed below.

Individuals

1. GARCIA CARNEIRO, Jorge Luis (a.k.a. GARCIA CARNEIRO, Jorge), La Guaira, Vargas, Venezuela; DOB 08 Feb 1952; POB Caracas, Venezuela; Gender Male; Cedula No. 4169273 (Venezuela) (individual) [VENEZUELA].

Designated pursuant to section 1(a)(ii)(C) of Executive Order 13692 of March 8, 2015, "Blocking Property and Suspending Entry of Certain Persons Contributing to the Situation in Venezuela" (E.O. 13692), as amended by Executive Order 13857 of January 25, 2019, "Taking Additional Steps To Address the National Emergency With Respect to Venezuela," (E.O. 13857) for being a current or former official of the Government of Venezuela.

2. CARRIZALEZ RENGIFO, Ramon Alonso (a.k.a. CARRIZALES, Ramon), Apure, Venezuela; DOB 08 Nov 1952; Gender Male; Cedula No. 2516238 (Venezuela) (individual) [VENEZUELA].

Designated pursuant to section 1(a)(ii)(C) of E.O. 13692, as amended by E.O. 13857, for being a current or former official of the Government of Venezuela.

3. LACAVA EVANGELISTA, Rafael Alejandro (a.k.a. LACAVA EVANGELISTA, Rafael; a.k.a. LACAVA, Rafael), Carabobo, Venezuela; DOB 03 Sep 1968; Gender Male; Cedula No. 8611651 (Venezuela) (individual) [VENEZUELA].

Designated pursuant to section 1(a)(ii)(C) of E.O. 13692, as amended by E.O. 13857, for being a current or former official of the Government of Venezuela.

4. PRIETO FERNANDEZ, Omar Jose (a.k.a. PRIETO, Omar), San Francisco, Zulia, Venezuela; DOB 25 May 1969; Gender Male; Cedula No. 9761075 (Venezuela) (individual) [VENEZUELA].

Designated pursuant to section 1(a)(ii)(C) of E.O. 13692, as amended by E.O. 13857, for being a current or former official of the Government of Venezuela.

Dated: February 25, 2019.

Andrea Gacki,

Director, Office of Foreign Assets Control.

[FR Doc. 2019-04934 Filed 3-15-19; 8:45 am]

BILLING CODE 4810-AL-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, 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 continuing information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning employer's annual federal tax return (American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the U.S. Virgin Islands).

DATES: Written comments should be received on or before May 17, 2019 to be assured of consideration.

ADDRESSES: Direct all written comments to Laurie Brimmer, Internal Revenue Service, Room 6529, 1111 Constitution Avenue NW, Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form should be directed to Kerry Dennis, at (202) 317-5751 or Internal Revenue Service, Room 6529, 1111 Constitution Avenue NW, Washington DC 20224, or through the internet, at Kerry.Dennis@irs.gov.

SUPPLEMENTARY INFORMATION:

Title: Employer's Annual Federal Tax Return (American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the U.S. Virgin Islands).

OMB Number: 1545-2010.

Form Numbers: Form 944-SS and 944-PR.

Abstract: Form 944-SS and Form 944-PR are designed so the smallest employers (those whose annual liability for social security and Medicare taxes is \$1,000 or less) will have to file and pay these taxes only once a year instead of every quarter.

Current Actions: There are no changes being made to the forms at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, and Farms.

Estimated Number of Respondents: 20,000.

Estimated Time per Respondent: 9 hours, 34 minutes.

Estimated Total Annual Burden Hours: 191,200.

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 12, 2019.

Laurie Brimmer,
Senior Tax Analyst.

[FR Doc. 2019-04964 Filed 3-15-19; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, 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 continuing information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning at risk limitations.

DATES: Written comments should be received on or before May 17, 2019 to be assured of consideration.

ADDRESSES: Direct all written comments to Laurie Brimmer, Internal Revenue Service, Room 6529, 1111 Constitution Avenue NW, Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form should be directed to Kerry Dennis, at (202) 317-5751 or Internal Revenue Service, Room 6529, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet, at Kerry.Dennis@irs.gov.

SUPPLEMENTARY INFORMATION:

Title: At-Risk Limitations.

OMB Number: 1545-0712.

Form Number: Form 6198.

Abstract: Internal Revenue Code section 465 requires taxpayers to limit their at-risk loss to the lesser of the loss or their amount at risk. Form 6198 is used by taxpayers to determine their deductible loss and by IRS to verify the amount deducted.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, and individuals, not-for-profit institutions, and farms.

Estimated Number of Respondents: 230,332.

Estimated Time per Respondent: 3 hours, 58 minutes.

Estimated Total Annual Burden Hours: 914,419.

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 12, 2019.

Laurie Brimmer,
Senior Tax Analyst.

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Environmental Protection Agency

40 CFR Part 50

Review of the Primary National Ambient Air Quality Standards for Sulfur Oxides; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 50

[EPA-HQ-OAR-2013-0566; FRL-9990-28-OAR]

RIN 2060-AT68

Review of the Primary National Ambient Air Quality Standards for Sulfur Oxides

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final action.

SUMMARY: Based on the Environmental Protection Agency's (EPA's) review of the air quality criteria addressing human health effects and the primary national ambient air quality standard (NAAQS) for sulfur oxides (SO_x), the EPA is retaining the current standard, without revision.

DATES: This final action is effective on April 17, 2019.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-HQ-OAR-2013-0566. Incorporated into this docket is a separate docket established for the Integrated Science Assessment for this review (Docket ID No. EPA-HQ-ORD-2013-0357). All documents in these dockets are listed on the www.regulations.gov website. Although listed in the index, some information is not publicly available, e.g., 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 may be viewed, with prior arrangement, at the EPA Docket Center. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at the Air and Radiation Docket Information Center, EPA/DC, WJC West Building, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744 and the telephone number for the Air and Radiation Docket Information Center is (202) 566-1742.

Availability of Information Related to This Action

A number of the documents that are relevant to this action are available through the EPA's website at <https://www.epa.gov/naaqs/sulfur-dioxide-so2-primary-air-quality-standards>. These documents include the Integrated

Review Plan for the Primary National Ambient Air Quality Standard for Sulfur Dioxide (U.S. EPA, 2014a), available at <https://www3.epa.gov/ttn/naaqs/standards/so2/data/20141028so2reviewplan.pdf>, the Integrated Science Assessment for Sulfur Oxides—Health Criteria (ISA [U.S. EPA, 2017a]), available at <https://cfpub.epa.gov/ncea/isa/recordisplay.cfm?deid=338596>, the Risk and Exposure Assessment for the Review of the National Ambient Air Quality Standard for Sulfur Oxides (REA [U.S. EPA, 2018a]), available at <https://www.epa.gov/naaqs/sulfur-dioxide-so2-standards-risk-and-exposure-assessments-current-review> and the Policy Assessment for the Review of the Primary National Ambient Air Quality Standard for Sulfur Oxides (PA [U.S. EPA, 2018b]), available at <https://www.epa.gov/naaqs/sulfur-dioxide-so2-standards-policy-assessments-current-review>. These and other related documents are also available for inspection and copying in the EPA docket identified above.

FOR FURTHER INFORMATION CONTACT: Dr. Nicole Hagan, Health and Environmental Impacts Division, Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Mail Code C504-06, Research Triangle Park, NC 27711; telephone: (919) 541-3153; fax: (919) 541-0237; email: hagan.nicole@epa.gov.

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Executive Summary

The EPA has completed its current review of the primary (health-based) NAAQS for SO_x, a group of closely related gaseous compounds that include sulfur dioxide (SO₂). Of these compounds, SO₂ (the indicator for the current standard) is the most prevalent in the atmosphere and the one for which there is a large body of scientific evidence on health effects. The current primary standard is set at a level of 75 parts per billion (ppb), as the 99th percentile of daily maximum 1-hour SO₂ concentrations, averaged over 3 years. Based on the EPA's review of key aspects of the currently available health effects evidence, quantitative risk and exposure information, advice from the Clean Air Scientific Advisory Committee (CASAC), and public comments, the EPA is retaining the current standard, without revision.

Reviews of the NAAQS are required by the Clean Air Act (CAA) on a periodic basis. The last review of the primary SO₂ NAAQS was completed in 2010 (75 FR 35520, June 22, 2010). In that review, the EPA significantly strengthened the primary standard, establishing a 1-hour standard and revoking the 24-hour and annual standards. The 1-hour standard was established to provide protection from respiratory effects associated with exposures as short as a few minutes based on evidence from health studies that documented respiratory effects in people with asthma exposed to SO₂ for 5 to 10 minutes while breathing at elevated rates. Revisions to the NAAQS in 2010 were accompanied by revisions to the ambient air monitoring and reporting regulations, requiring the reporting of hourly maximum 5-minute SO₂ concentrations, in addition to the hourly concentrations.

Emissions of SO₂ and associated concentrations in ambient air have declined appreciably since 2010 and over the longer term. For example, as summarized in the PA, emissions nationally are estimated to have declined by 82% over the period from 2000 to 2016, with a 64% decline from 2010 to 2016. Such declines in SO₂ emissions are likely related to the implementation of national control programs developed under the Clean Air Act Amendments of 1990, as well as changes in market conditions, *e.g.*, reduction in energy generation by coal. One-hour concentrations of SO₂ in ambient air in the U.S. declined more than 82% from 1980 to 2016 at locations continuously monitored over this period. The decline since 2000 has been 69% at a larger number of locations continuously monitored since that time. Daily maximum 5-minute concentrations have also consistently declined from 2011 to 2016.

In this review, as in past reviews of the primary NAAQS for SO_x, the health effects evidence evaluated in the ISA is focused on SO₂. The health effects of particulate atmospheric transformation products of SO_x, such as sulfates, are addressed in the review of the NAAQS for particulate matter (PM). Additionally, the welfare effects of SO_x and the ecological effects of particulate atmospheric transformation products are being considered in the review of the secondary NAAQS for oxides of nitrogen, oxides of sulfur, and PM, while the visibility, climate, and materials damage-related welfare effects of particulate sulfur compounds are being evaluated in the review of the secondary NAAQS for PM.

The health effects evidence newly available in this review, as critically assessed in the ISA in conjunction with the full body of evidence, reaffirms the conclusions from the last review. The health effects evidence continues to support the conclusion that respiratory effects are causally related to short-term SO₂ exposures, including effects related to asthma exacerbation in people with asthma, particularly children with asthma. The clearest evidence for this conclusion comes from controlled human exposure studies, available at the time of the last review, that show that people with asthma experience respiratory effects following very short (*e.g.*, 5–10 minute) exposures to SO₂ while breathing at elevated rates. Epidemiologic evidence, including that from studies not available in the last review, also supports this conclusion, primarily due to studies reporting positive associations between ambient air concentrations and emergency

department visits and hospital admissions, specifically for children.

Quantitative analyses of population exposure and risk also inform the final decision. These analyses expand and improve upon the quantitative analyses available in the last review. Unlike the REA available in the last review, which analyzed single-year air quality scenarios for potential standard levels bracketing the now-current level, the current REA assesses an air quality scenario for 3 years of air quality conditions that just meet the now-current standard, considering all of its elements, including its 3-year form. Other ways in which the current REA analyses are improved and expanded include improvements to models, model inputs and underlying databases, including the vastly expanded ambient air monitoring dataset for 5-minute concentrations, available as a result of changes in the last review to data reporting requirements.

Based on this evidence and quantitative information, as well as CASAC advice and consideration of public comment, the Administrator has concluded that the current primary SO₂ standard is requisite to protect public health, with an adequate margin of safety, from effects of SO_x in ambient air and should be retained, without revision. Therefore, the EPA is retaining the current 1-hour primary SO₂ standard, without revision. This decision is consistent with CASAC recommendations.

I. Background

This review focuses on the presence in ambient air of SO_x, a group of closely related gaseous compounds that includes SO₂ and sulfur trioxide (SO₃) and of which SO₂ (the indicator for the current standard) is the most prevalent in the atmosphere and the one for which there is a large body of scientific evidence on health effects. The health effects of particulate atmospheric transformation products of SO_x, such as sulfates, as well as visibility, climate, and materials damage-related welfare effects of such particulate sulfur compounds are being addressed in the review of the NAAQS for particulate matter (PM) (U.S. EPA, 2014a, 2016a, 2018c). Additionally, the ecological welfare effects of SO_x and their particulate atmospheric transformation products are being considered in the review of the secondary NAAQS for oxides of nitrogen, oxides of sulfur, and PM (U.S. EPA, 2014a, 2017b).¹

¹ Additional information on the review of secondary NAAQS for oxides of nitrogen, oxides of sulfur, and PM with regard to ecological welfare

A. Legislative Requirements

Two sections of the Clean Air Act (CAA or the Act) govern the establishment and revision of the NAAQS. Section 108 (42 U.S.C. 7408) directs the Administrator to identify and list certain air pollutants and then to issue air quality criteria for those pollutants. The Administrator is to list those air pollutants that in his “judgment, cause or contribute to air pollution which may reasonably be anticipated to endanger public health or welfare;” “the presence of which in the ambient air results from numerous or diverse mobile or stationary sources;” and “for which . . . [the Administrator] plans to issue air quality criteria” Air quality criteria are intended to “accurately reflect the latest scientific knowledge useful in indicating the kind and extent of all identifiable effects on public health or welfare which may be expected from the presence of [a] pollutant in the ambient air” 42 U.S.C. 7408(a)(2). Section 109 (42 U.S.C. 7409) directs the Administrator to propose and promulgate “primary” and “secondary” NAAQS for pollutants for which air quality criteria are issued. Section 109(b)(1) defines a primary standard as one “the attainment and maintenance of which in the judgment of the Administrator, based on such criteria and allowing an adequate margin of safety, [is] requisite to protect the public health.”² As provided in section 109(b)(2), a secondary standard must “specify a level of air quality the attainment and maintenance of which, in the judgment of the Administrator, based on such criteria, is requisite to protect the public welfare from any known or anticipated adverse effects associated with the presence of [the] pollutant in the ambient air.”³

effects is available at: <https://www.epa.gov/naaqs/nitrogen-dioxide-no2-and-sulfur-dioxide-so2-secondary-air-quality-standards>. Additional information on the review of the PM NAAQS is available at: <https://www.epa.gov/naaqs/particulate-matter-pm-air-quality-standards>.

² The legislative history of section 109 indicates that a primary standard is to be set at “the maximum permissible ambient air level . . . which will protect the health of any [sensitive] group of the population,” and that for this purpose “reference should be made to a representative sample of persons comprising the sensitive group rather than to a single person in such a group.” S. Rep. No. 91–1196, 91st Cong., 2d Sess. 10 (1970). See also *Lead Industries Association v. EPA*, 647 F.2d 1130, 1152 (D.C. Cir. 1980); *American Lung Association v. EPA*, 134 F.3d 388, 389 (D.C. Cir. 1998) (“NAAQS must protect not only average healthy individuals, but also ‘sensitive citizens’—children, for example, or people with asthma, emphysema, or other conditions rendering them particularly vulnerable to air pollution.”).

³ As specified in section 302(h) of the CAA (42 U.S.C. 7602(h)) effects on welfare include, but are

Continued

The requirement that primary standards provide an adequate margin of safety was intended to address uncertainties associated with inconclusive scientific and technical information available at the time of standard setting. It was also intended to provide a reasonable degree of protection against hazards that research has not yet identified. See *Lead Industries Association v. EPA*, 647 F.2d 1130, 1154 (D.C. Cir. 1980); *American Petroleum Institute v. Costle*, 665 F.2d 1176, 1186 (D.C. Cir. 1981); *American Farm Bureau Federation v. EPA*, 559 F.3d 512, 533 (D.C. Cir. 2009); *Association of Battery Recyclers v. EPA*, 604 F.3d 613, 617–18 (D.C. Cir. 2010). Both kinds of uncertainties are components of the risk associated with pollution at levels below those at which human health effects can be said to occur with reasonable scientific certainty. Thus, in selecting primary standards that provide an adequate margin of safety, the Administrator is seeking not only to prevent pollution levels that have been demonstrated to be harmful but also to prevent lower pollutant levels that may pose an unacceptable risk of harm, even if the risk is not precisely identified as to nature or degree. However, the CAA does not require the Administrator to establish a primary NAAQS at a zero-risk level or at background concentrations, see *Lead Industries Association v. EPA*, 647 F.2d at 1156 n.51, but rather at a level that reduces risk sufficiently so as to protect public health with an adequate margin of safety.

In addressing the requirement for an adequate margin of safety, the EPA considers such factors as the nature and severity of the health effects involved, the size of sensitive population(s) at risk,⁴ and the kind and degree of the uncertainties that must be addressed. The selection of any particular approach to providing an adequate margin of safety is a policy choice left specifically to the Administrator's judgment. See *Lead Industries Association v. EPA*, 647 F.2d at 1161–62.

not limited to, “effects on soils, water, crops, vegetation, manmade materials, animals, wildlife, weather, visibility, and climate, damage to and deterioration of property, and hazards to transportation, as well as effects on economic values and on personal comfort and well-being.”

⁴ As used here and similarly throughout this document, the term population (or group) refers to persons having a quality or characteristic in common, such as a specific pre-existing illness or a specific age or life stage. Section II.A.2.b below describes the identification of sensitive groups (called at-risk groups or at-risk populations) in this review.

In setting primary and secondary standards that are “requisite” to protect public health and welfare, respectively, as provided in section 109(b), the EPA’s task is to establish standards that are neither more nor less stringent than necessary for these purposes. In so doing, the EPA may not consider the costs of implementing the standards. See generally *Whitman v. American Trucking Associations*, 531 U.S. 457, 465–472, 475–76 (2001). Likewise, “[a]ttainability and technological feasibility are not relevant considerations in the promulgation of national ambient air quality standards.” *American Petroleum Institute*, 665 F.2d at 1185.

Section 109(d)(1) requires that “not later than December 31, 1980, and at 5-year intervals thereafter, the Administrator shall complete a thorough review of the criteria published under section 108 and the national ambient air quality standards . . . and shall make such revisions in such criteria and standards and promulgate such new standards as may be appropriate” Section 109(d)(2) requires that an independent scientific review committee “shall complete a review of the criteria . . . and the national primary and secondary ambient air quality standards . . . and shall recommend to the Administrator any new . . . standards and revisions of existing criteria and standards as may be appropriate” Since the early 1980s, this independent review function has been performed by the CASAC.

B. Related SO₂ Control Programs

States are primarily responsible for ensuring attainment and maintenance of ambient air quality standards once the EPA has established them. Under section 110 of the Act, 42 U.S.C. 7410, and related provisions, states are to submit, for EPA approval, state implementation plans (SIPs) that provide for the attainment and maintenance of such standards through control programs directed to sources of the pollutants involved. The states, in conjunction with the EPA, also administer the prevention of significant deterioration permitting program that covers these and other air pollutants. See 42 U.S.C. 7470–7479. In addition, federal programs provide for nationwide reductions in emissions of these and other air pollutants under Title II of the Act, 42 U.S.C. 7521–7574, which involves controls for automobile, truck, bus, motorcycle, nonroad engine and equipment, and aircraft emissions. Furthermore, the EPA establishes emission standards for stationary sources under other provisions of the

CAA; these standards, which include the new source performance standards (under section 111 of the Act, 42 U.S.C. 7411), and the national emission standards for hazardous air pollutants (under section 112 of the Act, 42 U.S.C. 7412) may also contribute to SO₂ emissions controls and reductions, including through controls aimed at reducing other pollutants.

C. Review of the Air Quality Criteria and Standard for Sulfur Oxides

The initial air quality criteria for SO_x were issued in 1967 and reevaluated in 1969 (34 FR 1988, February 11, 1969; U.S. DHEW, 1967, 1969). Based on the 1969 criteria, the EPA, in initially promulgating NAAQS for SO_x in 1971, established the indicator as SO₂. SO_x are a group of closely related gaseous compounds that include SO₂ and SO₃ and of which SO₂ (the indicator for the current standard) is the most prevalent in the atmosphere and the one for which there is a large body of scientific evidence on health effects. The two primary standards set in 1971 were 0.14 parts per million (ppm) averaged over a 24-hour period, not to be exceeded more than once per year, and 0.03 ppm, as an annual arithmetic mean (36 FR 8186, April 30, 1971).

The first review of the air quality criteria and primary standards for SO_x was initiated in the early 1980s and concluded in 1996 with the decision to retain the standards without revision (61 FR 25566, May 22, 1996). In reaching this decision, the Administrator considered the evidence newly available since the standards were set that documented asthma-related respiratory effects in people with asthma exposed for very short periods, such as 5 to 10 minutes. Based on his consideration of an exposure analysis using the then-limited monitoring data and early exposure modeling methods, the Administrator judged that revisions to the standards were not needed to provide requisite public health protection from SO_x in ambient air at that time (61 FR 25566, May 22, 1996). This decision was challenged in the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Circuit), which found that the EPA had failed to adequately explain its determination that no revision to the primary SO₂ standards was appropriate and remanded the determination back to the EPA for further explanation. *American Lung Association v. EPA*, 134 F.3d 388 (D.C. Cir. 1998).

This remand was addressed in the last review of the air quality criteria and primary standards for SO_x, which was completed in 2010. In that review, the

EPA promulgated a new 1-hour standard and also promulgated provisions for the revocation of the then-existing 24-hour and annual primary standards.⁵ The new 1-hour standard was set with a level of 75 parts per billion (ppb), a form of the 3-year average of the annual 99th percentile of daily maximum 1-hour average SO₂ concentrations, and SO₂ as the indicator. The Administrator judged that such a standard would provide the requisite protection for at-risk populations, such as people with asthma, against the array of adverse respiratory health effects related to short-term SO₂ exposures, including those as short as 5 minutes. With regard to longer-term exposures, the new standard was expected to maintain 24-hour and annual concentrations generally well below the levels of the previous standards, and the available evidence did not indicate the need for separate standards designed to protect against longer-term exposures (75 FR 35520, June 22, 2010). The EPA also revised the SO₂ ambient air monitoring regulations to require that monitoring agencies using continuous SO₂ methods report the highest 5-minute concentration for each hour of the day;⁶ agencies may report all twelve 5-minute concentrations for each hour, including the maximum, although it is not required (75 FR 35568, June 22, 2010). This rule and the EPA's denial of several petitions for administrative reconsideration were challenged in the D.C. Circuit, and the court denied or dismissed on jurisdictional grounds all the claims in the petitions for review. *National Environmental Development Association's Clean Air Project v. EPA*, 686 F.3d 803, 805 (D.C. Cir. 2012) ("NEDA/CAP").

In May 2013, the EPA initiated the current review by issuing a call for information in the **Federal Register** and also announcing a public workshop to inform the review (78 FR 27387, May 10, 2013). As was the case for the prior review, this review is focused on health effects associated with SO_x and the public health protection afforded by the existing standard. Participants in the

kickoff workshop included a wide range of external experts as well as EPA staff representing a variety of areas of expertise (e.g., epidemiology, human and animal toxicology, statistics, risk/exposure analysis, atmospheric science, and biology). Workshop discussions focused on key policy-relevant issues around which the Agency would structure the review and the newly available scientific information related to these issues. Based in part on the workshop discussions, the EPA developed the draft Integrated Review Plan (IRP) outlining the schedule, process, and key policy-relevant questions to guide this review of the SO_x air quality criteria and primary standard (U.S. EPA, 2014b). The draft IRP was released for public comment and was reviewed by the CASAC at a public teleconference on April 22, 2014 (79 FR 14035, March 12, 2014; Frey and Diez Roux, 2014). The final IRP was developed with consideration of comments from the CASAC and the public (U.S. EPA, 2014a; 79 FR 16325, March 25, 2014; 79 FR 66721, November 10, 2014).

As an early step in development of the Integrated Science Assessment (ISA)⁷ for this review, the EPA's National Center for Environmental Assessment (NCEA) hosted a public workshop at which preliminary drafts of key ISA chapters were reviewed by subject matter experts (79 FR 33750, June 12, 2014). Comments received from this review as well as comments from the public and the CASAC on the draft IRP were considered in preparation of the first draft ISA (U.S. EPA, 2015), released in November 2015 (80 FR 73183, November 24, 2015). The first draft ISA was reviewed by the CASAC at a public meeting in January 2016 and a public teleconference in April 2016 (80 FR 79330, December 21, 2015; 80 FR 79330, December 21, 2015; Diez Roux, 2016). The EPA released the second draft ISA in December 2016 (U.S. EPA, 2016b; 81 FR 89097, December 9, 2016), which was reviewed by the CASAC at a public meeting in March 2017 and a

public teleconference in June 2017 (82 FR 11449, February 23, 2017; 82 FR 23563, May 23, 2017; Diez Roux, 2017a). The final ISA was released in December 2017 (U.S. EPA, 2017a; 82 FR 58600, December 13, 2017).

In considering the need for quantitative exposure and risk analyses in this review, the EPA completed the Risk and Exposure Assessment (REA) Planning Document in February 2017 (U.S. EPA, 2017c; 82 FR 11356, February 22, 2017) and held a consultation with the CASAC at a public meeting in March 2017 (82 FR 11449, February 23, 2017; Diez Roux, 2017b). In consideration of the CASAC's comments at that consultation and public comments, the EPA developed the draft REA and draft PA, which were released on August 24, 2017 (U.S. EPA, 2017d, e; 82 FR 43756, September 19, 2017). The draft REA and draft PA were reviewed by the CASAC on September 18–19, 2017 (82 FR 37213, August 9, 2017; Cox and Diez Roux, 2018a, b). The EPA considered the advice and comments from the CASAC on the draft REA and draft PA, as well as public comments, in developing the final REA and final PA, which were released in early May 2018 (U.S. EPA, 2018a, b).

The proposed decision (henceforth "proposal") to retain the primary SO₂ NAAQS was signed on May 25, 2018, and published in the **Federal Register** on June 8, 2018 (83 FR 26752). The EPA held a public hearing in Washington, DC on July 10, 2018 (83 FR 28843, June 21, 2018). At the public hearing, the EPA heard testimony from three individuals representing specific interested organizations. The transcript from this hearing and written testimony provided at the hearing are in the docket for this review. The EPA extended the 45-day comment period by 17 days, until August 9, 2018 (83 FR 28843, June 21, 2018), and comments were received from various government, industry, and environmental groups, as well as members of the general public.

The schedule for completion of this review is governed by a consent decree resolving a lawsuit filed in July 2016 that included a claim that the EPA had failed to complete its review of the primary SO₂ NAAQS within 5 years, as required by the CAA.⁸ The consent decree, which was entered by the court on April 28, 2017, provides that the EPA will sign, for publication, a notice setting forth the final decision concerning its review of the primary NAAQS for SO_x no later than January

⁵ Timing and related requirements for the implementation of the revocation are specified in 40 CFR 50.4(e).

⁶ The rationale for this requirement was described as providing additional monitoring data for use in subsequent reviews of the primary standard, particularly for use in considering the extent of protection provided by the 1-hour standard against 5-minute peak SO₂ concentrations of concern (75 FR 35568, June 22, 2010). In establishing this requirement, the EPA described such data as being "of high value to inform future health studies and, subsequently, future SO₂ NAAQS reviews" (75 FR 35568, June 22, 2010).

⁷ The ISA for this review provides a comprehensive assessment of the current scientific literature useful in indicating the kind of and extent of all identifiable effects on public health associated with the presence of the pollutant in the ambient air, as described in section 108 of the CAA, emphasizing information that has become available since the last air quality criteria review in order to reflect the current state of knowledge. As such, the ISA forms the scientific foundation for this NAAQS review and is intended to provide information useful in forming policy relevant judgments about air quality indicator(s), form(s), averaging time(s) and level(s) for the NAAQS. The ISA functions in the current NAAQS review process as the Air Quality Criteria Document (AQCD) did in reviews completed prior to 2009.

⁸ See Complaint, *Center for Biological Diversity et al. v. Wheeler*, No. 3:16-cv-03796-VC (N.D. Cal., filed July 7, 2016), Doc. No. 1.

28, 2019, with such date to be extended automatically one day for each day of a lapse in appropriations if such a lapse were to occur within 120 days of this deadline.⁹ The EPA experienced such a lapse in appropriations in late December 2018 and January 2019, which led to the automatic extension of the January 28, 2019 deadline to February 25, 2019.¹⁰

D. Air Quality Information

This section presents information on sources and emissions of SO₂ and ambient concentrations, with a focus on information that is most relevant for the review of the primary SO₂ standard. This section is drawn from the more detailed discussion of SO₂ air quality in the PA and the ISA. It presents a summary of SO_x sources and emissions (section I.D.1) and ambient concentrations (section I.D.2).

1. Sources and Emissions of Sulfur Oxides

Sulfur oxides are emitted into air from specific sources (e.g., fuel combustion processes) and are also formed in the atmosphere from other atmospheric compounds (e.g., as an oxidation product of reduced sulfur compounds, such as sulfides). Sulfur oxides are also transformed in the atmosphere to particulate sulfur compounds, such as sulfates.¹¹ Sulfur oxides known to occur in the troposphere include SO₂ and SO₃ (ISA, section 2.3). With regard to SO₃, it “is known to be present in the emissions of coal-fired power plants, factories, and refineries, but it reacts with water vapor in the stacks or immediately after release into the atmosphere to form H₂SO₄” and “gas-phase H₂SO₄ . . . quickly condenses onto existing atmospheric particles or participates in new particle formation” (ISA, section 2.3). Thus, as a result of rapid atmospheric chemical reactions involving SO₃, the most prevalent sulfur

oxide in the atmosphere is SO₂ (ISA, section 2.3).¹²

Fossil fuel combustion is the main anthropogenic source of SO₂ emissions, while volcanoes and landscape fires (wildfires as well as controlled burns) are the main natural sources (ISA, section 2.1).¹³ Industrial chemical production, pulp and paper production, natural biological activity (plants, fungi, and prokaryotes), and volcanoes are among many sources of reduced sulfur compounds that contribute, through various oxidation reactions in the atmosphere, to the formation of SO₂ in the atmosphere (ISA, section 2.1). Anthropogenic SO₂ emissions originate primarily from point sources, including coal-fired electricity generating units (EGUs) and other industrial facilities (ISA, section 2.2.1). The largest SO₂-emitting sector within the U.S. is electricity generation, and 97% of SO₂ from electricity generation is from coal combustion. Other anthropogenic sources of SO₂ emissions include industrial fuel combustion and process emissions, industrial processing, commercial marine activity, and the use of fire in landscape management and agriculture (ISA, section 2.2.1).

National average SO₂ emissions are estimated to have declined by 82% over the period from 2000 to 2016, with a 64% decline from 2010 to 2016 (PA, Figure 2–2; 2014 National Emissions Inventory (NEI)). Such declines in SO₂ emissions are likely related to the implementation of national control programs developed under the Clean Air Act Amendments of 1990, including Phase I and II of the Acid Rain Program, the Clean Air Interstate Rule, the Cross-State Air Pollution Rule, and the Mercury Air Toxic Standards,¹⁴ as well as changes in market conditions, e.g., reduction in energy generation by coal (PA, section 2.1, Figure 2–2; U.S. EIA, 2017).¹⁵ Regulations on sulfur content

of diesel fuel, both fuel for onroad vehicles and nonroad engines and equipment, may also contribute to declining trends in SO₂ emissions.¹⁶ Declines in emissions from all sources between 1971, when SO_x NAAQS were first established, and 1990, when the Amendments were adopted, were on the order of 5,000 tpy deriving primarily from reductions in emissions from the metals processing sector (ISA, Figure 2–5).

2. Ambient Concentrations

Ambient air concentrations of SO₂ in the U.S. have declined substantially from 1980 to 2016, more than 82% in terms of the form of the current standard (the 3-year average of annual 99th percentile daily maximum 1-hour concentrations) at locations continuously monitored over this period (PA, Figure 2–4).¹⁷ The decline since 2000 has been 69% at the larger number of locations continuously monitored since that time (PA, Figure 2–5).¹⁸

As a result of changes to the monitoring data reporting requirements promulgated in 2010 (as summarized in section I.C above) maximum hourly 5-minute concentrations of SO₂ in ambient air are available at SO₂ NAAQS compliance monitoring sites (PA, Figure 2–3; 75 FR 35554, June 22, 2010).¹⁹ These newly available data document reductions in peak 5-minute concentrations across the U.S. For example, over the period from 2011 to 2016, the 99th percentile 5-minute SO₂ concentrations at SO₂ sites continuously monitored during this period declined approximately 53% (PA, Figure 2–6, Appendix B).

Concentrations of SO₂ vary across the U.S. and tend to be higher in areas with sources having relatively higher SO₂ emissions (e.g., locations influenced by emissions from EGUs). Consistent with the locations of larger SO₂ sources, higher concentrations are primarily

expected to be more than 14,000 tons in 2018 (U.S. EPA, 2014c).

¹⁶ See <https://www.epa.gov/diesel-fuel-standards/diesel-fuel-standards-and-rulemakings#nonroad-diesel>.

¹⁷ This decline is the average of observations at 24 monitoring sites that have been continuously operating from 1980–2016.

¹⁸ This decline is the average of observations at 193 monitoring sites that have been continuously operating across 2000–2016.

¹⁹ Such measurements were available for fewer than 10% of monitoring sites at the time of the last review. Of the monitors reporting 5-minute data in 2016, almost 40% are reporting all twelve 5-minute SO₂ measurements in each hour while about 60% are reporting the maximum 5-minute SO₂ concentration in each hour (PA, section 2.2). The expanded dataset has provided a more robust foundation for the quantitative analyses in the REA for this review.

⁹ Consent Judgment at 4, *Center for Biological Diversity et al. v. Wheeler*, No. 3:16-cv-03796-VC (N.D. Cal., entered April 28, 2017), Doc. No. 37.

¹⁰ Joint Notice of Automatic Deadline Extension in Light of Lapse in Appropriations, *Center for Biological Diversity et al. v. Wheeler*, No. 3:16-cv-03796-VC (N.D. Cal., filed February 15, 2019), Doc. No. 39.

¹¹ Some sulfur compounds formed from or emitted with SO_x are very short-lived (ISA, pp. 2–23 to 2–24). For example, studies in the 1970s and 1980s identified particle-phase sulfur compounds, including inorganic SO₃^{–2} complexed with Fe(III) in the particles emitted by a smelter near Salt Lake City, UT. Subsequent studies reported rapid oxidation of such compounds, “on the order of seconds to minutes” and “further accelerated by low pH” (ISA, p. 2–24). Thus, “[t]he highly acidic aqueous conditions that arise once smelter plume particles equilibrate with the ambient atmosphere ensure that S(IV)-Fe(III) complexes have a small probability of persisting and becoming a matter of concern for human exposure” (ISA, p. 2–24).

¹² The health effects of particulate atmospheric transformation products of SO_x, such as sulfates, are addressed in the review of the NAAQS for PM (U.S. EPA 2014a, 2016a, 2018c).

¹³ A modeling analysis estimated annual mean SO₂ concentrations for 2001 in the absence of any U.S. anthropogenic emissions of SO₂ (2008 ISA, section 2.5.3; ISA, section 2.5.5). Such concentrations are referred to as U.S. background or USB. The 2008 ISA analysis estimated USB concentrations of SO₂ to be below 0.01 ppb over much of the U.S., ranging up to a maximum of 0.03 ppb (ISA, section 2.5.5).

¹⁴ When established, the MATS Rule was estimated to reduce SO₂ emissions from power plants by 41% beyond the reductions expected from the Cross-State Air Pollution Rule (U.S. EPA, 2011).

¹⁵ In 2014, the EPA promulgated Tier 3 Motor Vehicle Emission and Fuel Standards that set emissions standards for new vehicles and lowered the sulfur content of gasoline. Reductions in SO₂ emissions resulting from these standards are

located in the eastern half of the continental U.S., especially in the Ohio River valley, upper Midwest, and along the Atlantic coast (PA, Figure 2–7). The point source nature of SO₂ emissions contributes to the relatively high spatial variability of SO₂ concentrations compared with pollutants such as ozone (ISA, section 3.2.3). Another factor in the spatial variability is the dispersion and oxidation of SO₂ in the atmosphere, processes that contribute to decreasing concentrations with increasing distance from the source. Point source emissions of sulfur oxides create a plume of appreciably higher concentrations in the air, which may or may not impact large portions of the surrounding populated areas depending on specific source characteristics, meteorological conditions and terrain.

Analyses in the ISA of ambient air monitoring data for 2013–2015 in six areas indicate that 1-hour daily maximum SO₂ concentrations vary across seasons, with the greatest variations seen in the upper percentile concentrations (versus average or lower percentiles) for each season (ISA, section 2.5.3.2).²⁰ This seasonal variation as well as month-to-month variations are generally consistent with month-to-month emissions patterns and the expected atmospheric chemistry of SO₂ for a given season. Consistent with the nationwide diel patterns reported in the last review, 1-hour average and 5-minute hourly maximum SO₂ concentrations for 2013–2015 in all six areas evaluated were generally low during nighttime and approached maxima values during daytime hours (ISA, section 2.5.3.3, Figures 2–23 and 2–24). The timing and duration of daytime maxima in the six sites evaluated in the ISA were likely related to a combination of source emissions and meteorological parameters (ISA, section 2.5.3.3; 2008 ISA [U.S. EPA 2008a], section 2.5.1).

II. Rationale for Decision

This section presents the rationale for the Administrator's decision to retain the existing primary SO₂ standard. This decision is based on a thorough review in the ISA of the latest scientific information, published through August 2016 (ISA, p. xlii), on human health

effects associated with SO_x in ambient air. This decision also accounts for analyses in the PA of policy-relevant information from the ISA and the REA, as well as information on air quality; the analyses of human exposure and health risks in the REA; CASAC advice; and consideration of public comments received on the proposal.

Section II.A provides background on the general approach for this review and the basis for the existing standard, and also presents brief summaries of key aspects of the currently available health effects and exposure/risk information. Section II.B summarizes the proposed conclusions and CASAC advice, addresses public comments received on the proposal and presents the Administrator's conclusions on the adequacy of the current standard, drawing on consideration of this information, advice from the CASAC, and comments from the public. Section II.C summarizes the Administrator's decision on the primary standard.

A. Introduction

As in prior reviews, the general approach to reviewing the current primary standard is based, most fundamentally, on using the EPA's assessment of current scientific evidence and associated quantitative analyses to inform the Administrator's judgment regarding a primary SO₂ standard that protects public health with an adequate margin of safety. In drawing conclusions with regard to the primary standard, the final decision on the adequacy of the current standard is largely a public health policy judgment to be made by the Administrator. The Administrator's final decision draws upon scientific information and analyses about health effects, population exposure and risks, as well as judgments about how to consider the range and magnitude of uncertainties that are inherent in the scientific evidence and exposure/risk analyses. The approach to informing these judgments, discussed more fully below, is based on the recognition that the available health effects evidence generally reflects a continuum, consisting of levels at which scientists generally agree that health effects are likely to occur, through lower levels at which the likelihood and magnitude of the response become increasingly uncertain. This approach is consistent with the requirements of the NAAQS provisions of the Clean Air Act and with how the EPA and the courts have historically interpreted the Act. These provisions require the Administrator to establish primary standards that, in his judgment, are requisite to protect public

health with an adequate margin of safety. In so doing, the Administrator seeks to establish standards that are neither more nor less stringent than necessary for this purpose. The Act does not require that primary standards be set at a zero-risk level, but rather at a level that avoids unacceptable risks to public health including the health of sensitive groups.²¹ The four basic elements of the NAAQS (indicator, averaging time, level, and form) are considered collectively in evaluating the health protection afforded by a standard.

In evaluating the appropriateness of retaining or revising the current primary SO₂ standard, the EPA has adopted an approach that builds upon the general approach used in the last review and reflects the body of evidence and information now available. As summarized in section II.A.1 below, the Administrator's decisions in the prior review were based on an integration of information on health effects associated with exposure to SO₂ with information on the public health significance of key health effects, as well as on policy judgments as to when the standard is requisite to protect public health with an adequate margin of safety and on consideration of advice from the CASAC and public comments. These decisions were also informed by air quality and related analyses and quantitative exposure and risk information.

Similarly, in this review, as described in the PA, the proposal, and elsewhere in this document, we draw on the current evidence and quantitative assessments of exposure and risk pertaining to the public health risk of SO₂ in ambient air. The past and current approaches are both based, most fundamentally, on the EPA's assessments of the current scientific evidence and associated quantitative analyses. The EPA's assessments are primarily documented in the ISA, REA and PA, all of which have received CASAC review and public comment (80 FR 73183, November 24, 2015; 80 FR 79330, December 21, 2015; 81 FR 89097, December 9, 2016; 82 FR 11356, February 22, 2017; 82 FR 11449, February 23, 2017; 82 FR 23563, May 23, 2017; 82 FR 37123, August 9, 2017; 82 FR 43756, September 19, 2017; 83 FR 14638, April 5, 2018). To bridge the gap between the scientific assessments of the ISA and REA and the judgments required of the Administrator in determining whether the current standard remains requisite to protect

²⁰ The six "focus areas" evaluated in the ISA are: Cleveland, OH; Pittsburgh, PA; New York City, NY; St. Louis, MO (and neighboring areas in IL); Houston, TX; and Gila County, AZ (ISA, section 2.5.2.2). These six locations were selected based on (1) their relevance to current health studies (*i.e.*, areas with peer-reviewed, epidemiologic analysis); (2) the existence of four or more monitoring sites located within the area boundaries; and (3) the presence of several diverse SO₂ sources within a given focus area boundary.

²¹ As noted in section I.A above, such protection is specified for the sensitive group of individuals and not to a single person in the sensitive group (see S. Rep. No. 91–1196, 91st Cong., 2d Sess. 10 [1970]).

public health with an adequate margin of safety, the PA evaluates the policy implications of the current evidence in the ISA and of the quantitative analyses in the REA.

In considering the scientific and technical information, we consider both the information available at the time of the last review and information newly available since the last review, including most particularly that which has been critically analyzed and characterized in the current ISA. We additionally consider the quantitative exposure and risk information described in the REA that estimated SO₂-related exposures and lung function decrements associated with air quality conditions just meeting the current standard in simulated at-risk populations in multiple case study areas (REA, chapter 5). The evidence-based discussions presented below (and summarized more fully in the proposal) draw upon evidence from studies evaluating health effects related to exposures to SO₂, as discussed in the ISA. The exposure/risk-based discussions also presented below (and summarized more fully in the proposal) have been drawn from the quantitative analyses for SO₂, as discussed in the REA. Sections II.A.2 and II.A.3 below provide an overview of the current health effects and quantitative exposure and risk information with a focus on the specific policy-relevant questions identified for these categories of information in the PA (PA, chapter 3).

1. Background on the Current Standard

The current primary standard was established in the last review of the primary NAAQS for SO_x, which was completed in 2010 (75 FR 35520, June 22, 2010). The decision in that review to revise the primary standards (establishing a 1-hour standard and providing for revocation of the 24-hour and annual standards) reflected the extensive body of evidence of respiratory effects in people with asthma, which has expanded over the four decades since the first SO₂ standards were established in 1971 (U.S. EPA, 1982, 1986, 1994, 2008a). This evidence was assessed in the 2008 ISA.

A key element of the expanded evidence base was a series of controlled human exposure studies documenting effects on lung function associated with bronchoconstriction in people with asthma exposed while breathing at elevated rates²² for periods as short as

minutes (U.S. EPA, 1982, 1986, 1994, 2008a). Another aspect of the information available in the 2010 review was the air quality database, which had expanded since the previous review (completed in 1996), and which provided data on the pattern of peak 5-minute SO₂ concentrations occurring at that time. The EPA used these data in the 2009 quantitative exposure and risk assessments to provide an up-to-date ambient air quality context for interpreting the health effects evidence. In addition to providing support for decisions in the 2010 review, these aspects of that review provided support to the EPA in addressing the issues raised in the court remand of the Agency's 1996 decision not to revise the standards to specifically address 5-minute exposures with that decision (75 FR 35523, June 22, 2010). Together, the evidence characterized in the 2008 ISA, which included epidemiologic and animal toxicologic studies as well as the extensive set of controlled human exposure studies, and the quantitative assessments in the 2009 REA, as well as advice from the CASAC and public comment, formed the basis for the EPA's 2010 action to strengthen the primary NAAQS for SO_x to provide the requisite protection of public health with an adequate margin of safety, and to provide increased protection for at-risk populations, such as people with asthma (75 FR 35550, June 22, 2010).

Thus, the 2010 decision focused on the effects most pertinent to SO_x in ambient air and recognized the long-standing evidence regarding the sensitivity of some people with asthma to brief SO₂ exposures experienced while breathing at elevated rates. The robust evidence base, comprised of findings from controlled human exposure, epidemiologic, and animal toxicological studies, was judged "sufficient to infer a causal relationship" between short-term SO₂ exposures ranging from 5 minutes to 24 hours and respiratory morbidity (75 FR 35535, June 22, 2010). The "definitive evidence" for this conclusion came from studies of 5- to 10-minute controlled exposures that reported respiratory symptoms and decreased lung function in exercising individuals with asthma (2008 ISA, section 5.3). Supporting

would be associated with ventilation rates at or above 40 liters per minute; an equivalent ventilation rate was derived in order to identify corresponding rates for the range of ages and sizes of the simulated populations (U.S. EPA, 2009, section 4.1.4.4). Accordingly, these phrases are used in the current review when referring to REA analyses from the last review. Otherwise, however, the documents for this review generally use the phrase "elevated breathing rates" in place of those phrases.

evidence was provided by epidemiologic studies of associations of a broader range of health outcomes with ambient air concentrations of SO₂, with uncertainty noted about the magnitude of the study effect estimates, quantification of the concentration-response relationship, potential confounding by copollutants, and other aspects (75 FR 35535–36, June 22, 2010; 2008 ISA, section 5.3).

Accordingly, conclusions reached in the last review were based primarily on consideration of the health effects evidence for short-term exposures, and particularly on interpretation of the evidence from controlled human exposure studies within the context of the quantitative exposure and risk analyses. The epidemiologic evidence also provided support for various aspects of the decision. In making judgments on the public health significance of health effects related to short-term ambient air-related SO₂ exposures, the Administrator considered statements from the American Thoracic Society (ATS) regarding adverse effects of air pollution,²³ the CASAC's written advice and comments,²⁴ and judgments made by the EPA in considering similar effects in previous NAAQS reviews (75 FR 35526 and 35536, June 22, 2010; ATS, 1985, 2000a). Based on these considerations, the Administrator, in 2010, gave weight to the findings of respiratory effects in exercising people with asthma after 5- to 10-minute exposures as low as 200 ppb, and further recognized that higher exposures (at or above 400 ppb) were associated with respiratory symptoms and with a greater number of study subjects experiencing lung function decrements. Moreover, she took note of the greater severity of the response at and above 400 ppb, recognizing effects associated

²³ The 1999 statement of the ATS (published in 2000) on "What Constitutes an Adverse Health Effect of Air Pollution?" is "intended to provide guidance to policy makers and others who interpret the scientific evidence on the health effects of air pollution for the purpose of risk management" and describes "principles to be used in weighing the evidence" when considering what may be adverse and nonadverse effects on health (ATS, 2000a). For example, the ATS statements recognized a distinction between reversible and irreversible effects, recommending that reversible loss of lung function in combination with the presence of symptoms be considered adverse (ATS 1985, 2000a; 75 FR 35526, June 22, 2010).

²⁴ For example, the CASAC letter on the first draft SO₂ REA to the Administrator stated: "CASAC believes strongly that the weight of clinical and epidemiology evidence indicates there are detectable clinically relevant health effects in sensitive subpopulations down to a level at least as low as 0.2 ppm SO₂" (Henderson, 2008).

²² The phrase "elevated ventilation" (or "moderate or greater exertion") was used in the 2009 REA and Federal Register notifications in the last review to refer to activity levels in adults that

with exposures as low as 200 ppb to be less severe (75 FR 35547, June 22, 2010).

As a result and based on consideration of the entire body of evidence and information available in the review, with particular attention to the exposure and risk estimates from the 2009 REA, as well as the advice from the CASAC and public comments, the Administrator concluded that the then-existing 24-hour standard did not adequately protect public health (75 FR 35536, June 22, 2010). The 2009 REA estimated that substantial percentages of children with asthma might be expected to experience exposures at least once annually that had been associated with moderate or greater lung function decrements²⁵ in the controlled human exposure studies (75 FR 35536, June 22, 2010). The Administrator judged that such exposures can result in adverse health effects in people with asthma and found that the estimated population frequencies for such exposures (24% of the at-risk population with at least one occurrence per year at or above 400 ppb and 73% with at least one occurrence per year at or above 200 ppb) were significant from a public health perspective and that the then-existing primary standards did not adequately protect public health (75 FR 35536, June 22, 2010).²⁶ In order to provide the requisite protection to people with asthma from the adverse health effects of 5-minute to 24-hour SO₂ exposures, she replaced the 24-hour standard with a new, 1-hour standard (75 FR 35536, June 22, 2010). Further, upon reviewing the evidence with regard to the potential

for effects from long-term exposures,²⁷ the Administrator revoked the annual standard based on her recognition of the lack of sufficient health evidence to support a long-term standard and on air quality information indicating that the new short-term standard would have the effect of generally maintaining annual SO₂ concentrations well below the level of the revoked annual standard (75 FR 35550, June 22, 2010).

The Administrator selected a 1-hour averaging time for the new standard based on available air quality analyses in the REA that indicated that a 1-hour averaging time would be effective in addressing 5-minute peak SO₂ concentrations such that the requisite protection from 5- to 10-minute exposure events could be provided without having a standard with a 5-minute averaging time (75 FR 35539, June 22, 2010).²⁸ The analyses suggested that, compared to a 24-hour averaging time, a 1-hour averaging time would more efficiently and effectively limit 5-minute peak concentrations of SO₂ that had been shown in controlled human exposure studies to result in increased prevalence of respiratory symptoms and/or decrements in lung function in exercising people with asthma (2009 REA, section 10.5.2.2; 75 FR 35539, June 22, 2010). The analyses found that a 1-hour standard could substantially reduce the upper end of the distribution of SO₂ concentrations in ambient air that were more likely to be associated with respiratory effects, while the longer averaging time was shown to lack effectiveness and efficiency in addressing 5-minute peak SO₂ concentrations, likely over-controlling in some areas while under-controlling in others (75 FR 35539, June 22, 2010; 2009 REA, section 10.5.2.2). The CASAC additionally advised that “a one-hour standard is the preferred averaging time” (Samet, 2009, pp. 15, 16), finding the REA to provide a “convincing rationale” that supported “a one-hour standard as protective of public health” (Samet, 2009, pp. 1, 15 and 16). Thus, in consideration of the available information summarized here and CASAC advice, the Administrator judged that a 1-hour standard (given the appropriate level and form) was the

appropriate means for controlling short-term exposures to SO₂ ranging from 5 minutes to 24 hours (75 FR 35539, June 22, 2010).

The statistical form for the 1-hour standard, the 99th percentile daily maximum 1-hour average concentrations averaged over 3 years, is based on consideration of the health effects evidence, stability in the public health protection provided by the programs implementing the standard, and advice from the CASAC, as well as results of the 2009 REA for alternative standard forms (75 FR 35541, June 22, 2010). With regard to stability, the concentration-based form averaged over 3 years was concluded to be appreciably more stable than a no-exceedance based form, which had been the form of the then-existing 24-hour standard (75 FR 35541, June 22, 2010). The Administrator’s objective in selecting the specific concentration-based form was for the form of the new standard to be especially focused on limiting the upper end of the distribution of ambient SO₂ concentrations (*i.e.*, above 90th percentile SO₂ concentrations) in order to provide protection with an adequate margin of safety against effects observed in controlled human exposure studies and associated with ambient air SO₂ concentrations in epidemiologic studies (75 FR 35541, June 22, 2010). Based on results of air quality and exposure analyses in the REA which indicated the 99th percentile form likely to be appreciably more effective at achieving the desired control of 5-minute peak exposures than a 98th percentile form, the Administrator decided the form should be the 99th percentile of daily maximum 1-hour concentrations averaged over 3 years (75 FR 35541, June 22, 2010).

The level for the new standard was set primarily based on consideration of the findings of the 2009 REA exposure analyses with regard to the varying degrees of protection that different levels of a 1-hour daily maximum SO₂ standard might be expected to provide against 5-minute exposures to concentrations of 200 ppb and 400 ppb.²⁹ For example, the single-year

²⁵ In assessments for NAAQS reviews, the magnitude of lung function responses described as indicative of a moderate response include increases in specific airway resistance (sRaw) of at least 100% (*e.g.*, 2008 ISA; U.S. EPA, 1994, Table 8; U.S. EPA, 1996, Table 8–3). The moderate category has also generally included reductions in forced expiratory volume in 1 second (FEV₁) of 10 to 20% (*e.g.*, U.S. EPA, 1996, Table 8). For the 2008 ISA, the midpoint of that range (15%) was used to indicate a moderate response. A focus on 15% reduction in FEV₁ was also consistent with the relationship observed between sRaw and FEV₁ responses in the Linn et al. studies (1987, 1990) for which “a 100% increase in sRaw roughly corresponds to a 12 to 15% decrease in FEV₁” (U.S. EPA, 1994, p. 20). Thus, in the 2008 review, moderate or greater SO₂-related bronchoconstriction or decrements in lung function referred to the occurrence of at least a doubling in sRaw or at least a 15% reduction in FEV₁ (2008 ISA, p. 3–5).

²⁶ In giving particular attention to the exposure and risk estimates from the 2009 REA for air quality just meeting the then-existing standards, the Administrator also noted epidemiologic study findings of associations with respiratory-related health outcomes in studies of locations where maximum 24-hour average SO₂ concentrations were below the level of the then-existing 24-hour standard, while also recognizing uncertainties associated with the epidemiologic evidence (75 FR 35535–36, June 22, 2010).

²⁷ In evaluating the health effects studies in the ISA, the EPA has generally categorized exposures of durations longer than a month to be “long-term” (ISA, p. 1–2; 2008 ISA, p. 3–1).

²⁸ The Administrator judged that a standard with a 5-minute averaging time would result in significant and unnecessary instability in public health protection (75 FR 35539, June 22, 2010). Such instability could reduce public health protection by disrupting an area’s ongoing implementation plans and associated control programs (75 FR 35537, June 22, 2010).

²⁹ The Administrator additionally noted the results of the analysis of the limited available air quality data for 5-minute SO₂ concentrations with regard to prevalence of higher 5-minute concentrations at monitor sites when data were adjusted to just meet a standard level of 100 ppb. This 40-county analysis, which compared 5-minute concentrations estimated to occur in these air quality scenarios to benchmark levels, indicated for a 1-hour standard level of 100 ppb, there would be a maximum annual average of 2 days per year with 5-minute concentrations above 400 ppb and 13 days with 5-minute concentrations above 200 ppb (75 FR 35546, June 22, 2010).

exposure assessment for St. Louis³⁰ estimated that a 1-hour standard at 100 ppb would likely protect more than 99% of children with asthma in that city from experiencing any days in a year with at least one 5-minute exposure at or above 400 ppb while at moderate or greater exertion, and approximately 97% of those children with asthma from experiencing any days in a year with at least one exposure at or above 200 ppb while at moderate or greater exertion (75 FR 35546–47, June 22, 2010). The St. Louis study area results for the air quality scenario representing a 1-hour standard level of 50 ppb suggested that such a standard would further limit exposures, such that more than 99% of children at moderate or greater exertion would likely be protected from experiencing any days in a year with a 5-minute exposure at or above the 200 ppb benchmark concentration (75 FR 35542, June 22, 2010). In considering the implications of these estimates, and the substantial reduction in 5-minute exposures at or above 200 ppb, the Administrator did not judge that a standard level as low as 50 ppb³¹ was warranted (75 FR 35547, June 22, 2010). Before reaching her conclusion with regard to level for the 1-hour standard, the Administrator additionally considered the epidemiologic evidence, placing relatively more weight on those U.S. epidemiologic studies (some conducted in multiple locations) reporting mostly positive and sometimes statistically significant associations between ambient SO₂ concentrations and emergency department visits or hospital admissions related to asthma or other respiratory symptoms, and noting a cluster of three studies for which 99th percentile 1-hour daily maximum concentrations were estimated to be between 78–150 ppb and for which the SO₂ effect estimate remained positive and statistically

³⁰ Of the two study areas assessed in the 2009 REA (St. Louis and Greene County, Missouri), the EPA considered the St. Louis results to be more informative to consideration of the adequacy of protection associated with the then-current and alternative standards (75 FR 35528, June 22, 2010; 74 FR 64840, December 8, 2009). The St. Louis study area included several counties and had population size and magnitudes of emissions density (on a spatial scale) similar to other urban areas in the U.S., while the second study area (Greene County, Missouri) was a rural county with much lower population and emissions density.

³¹ In the 2009 REA results for the St. Louis single year scenario with a level of 50 ppb (the only level below 100 ppb that was analyzed), 99.9% of children with asthma would be expected to be protected from a day with a 5-minute exposure at or above 200 ppb, and 100% from a day with a 5-minute exposure at or above 400 ppb (2009 REA, Appendix, p. B–62).

significant in copollutant models with PM (75 FR 35547–48, June 22, 2010).³²

Based on the above considerations and the comments received on the proposal, advice from the CASAC, the entire body of evidence and information available in that review, and the related uncertainties,³³ the Administrator selected a standard level of 75 ppb. She concluded that such a standard, with a 1-hour averaging time and 99th percentile form, would provide an increase in public health protection compared to the then-existing standards and would be expected to provide the desired degree of protection against the respiratory effects elicited by SO₂ exposures in controlled human exposure studies and associated with ambient air concentrations in epidemiologic studies (75 FR 35548, June 22, 2010).³⁴ The Administrator emphasized the latter in judging that the level of 75 ppb provided an adequate margin of safety (75 FR 35548, June 22, 2010). Thus, she concluded that a NAAQS for SO_x of 75 ppb, as the 99th percentile of daily maximum 1-hour average SO₂ concentrations averaged over 3 years, would provide the requisite protection of public health with an adequate margin of safety (75 FR 35547–35548, June 22, 2010).

2. Overview of Health Effects Evidence

In this section, we provide an overview of the policy-relevant aspects of the health effects evidence available for consideration in this review. Section II.B of the proposal provides a detailed summary of key information contained in the ISA and in the PA on the health effects associated with SO₂ exposures, and the related public health

³² Regarding the monitor concentrations in these studies, the EPA noted that although they may be a reasonable approximation of concentrations occurring in the areas, the monitored concentrations were likely somewhat lower than the absolute highest 99th percentile 1-hour daily maximum SO₂ concentrations occurring across these areas (75 FR 35547, June 22, 2010).

³³ Such uncertainties included both those with regard to the epidemiologic evidence, including potential confounding and exposure measurement error, and also those with regard to the information from controlled human exposure studies for at-risk groups, including the extent to which the results would be expected to be similar for individuals with more severe asthma than that in study subjects (75 FR 35546, June 22, 2010).

³⁴ For example, such a standard was considered likely “to maintain SO₂ concentrations below those in locations where key U.S. epidemiologic studies have reported that ambient SO₂ is associated with clearly adverse respiratory health effects, as indicated by increased hospital admissions and emergency department visits” and also was “expected to substantially limit asthmatics’ exposure to 5–10 minute SO₂ concentrations ≥200 ppb, thereby substantially limiting the adverse health effects associated with such exposures” (75 FR 35548, June 22, 2010).

implications, focusing particularly on the information most relevant to consideration of effects associated with the presence of SO₂ in ambient air (83 FR 26761, June 8, 2018). The subsections below briefly outline this information in the four topic areas addressed in section II.B of the proposal.

a. Nature of Effects

Sulfur dioxide is a highly reactive and water-soluble gas that once inhaled is absorbed almost entirely in the upper respiratory tract³⁵ (ISA, sections 4.2 and 4.3). Brief exposures to SO₂ can elicit respiratory effects, particularly in individuals with asthma when breathing at elevated rates (ISA, p. 1–17). Under conditions of elevated breathing rates (*e.g.*, while exercising), SO₂ penetrates the upper respiratory tract, entering the tracheobronchial region,³⁶ where, in sufficient concentration, it results in responses linked to asthma exacerbation in individuals with asthma (ISA, sections 4.2, 4.3, and 5.2). People with asthma have an increased propensity for the airways to narrow in response to certain inhaled stimuli, as compared to people without asthma or allergies (ISA, section 5.2.1.2).³⁷ This narrowing or constriction of the airways in the respiratory tract, termed bronchoconstriction, is characteristic of an asthma attack and is the most sensitive indicator of SO₂-induced lung function effects (ISA, p. 5–8). Bronchoconstriction causes an increase in airway resistance, often assessed by measurement of specific airway resistance (sRaw). Exercising individuals without asthma have also been found to exhibit increased sRaw or related responses, such as reduced forced expiratory volume in 1 second (FEV₁), but at much higher SO₂

³⁵ The term “upper respiratory tract” refers to the portion of the respiratory tract—including the nose, mouth and larynx—that precedes the tracheobronchial region (ISA, sections 4.2 and 4.3).

³⁶ The term “tracheobronchial region” refers to the region of the respiratory tract subsequent to the larynx and preceding the deep lung (or alveoli). This region includes the trachea, bronchi, and bronchioles.

³⁷ The propensity for airways to narrow following inhalation of some stimuli is termed bronchial or airway responsiveness (ISA, section 5.2.1.2, p. 5–8). In clinical situations where airway responsiveness to methacholine or histamine is assessed and the concentration resulting in a specific reduction in lung function (the provocative concentration) meets the ATS criteria for classification of the subject as hyperresponsive, the terms airway hyperresponsiveness (AHR) or bronchial hyperresponsiveness (BHR) are used (ATS, 2000b). Along with symptoms, variable airway obstruction, and airway inflammation, AHR (or BHR) is a primary feature in the clinical definition and characterization of asthma severity (ISA, section 5.2.1.2; Reddel et al., 2009).

exposure concentrations than exercising individuals with asthma (ISA, section 5.2.1.7). For example, the ISA finds that “healthy adults are relatively insensitive to the respiratory effects of SO₂ below 1 ppm” (ISA, p. 5–9).

Based on assessment of the currently available evidence, as in the last review, the ISA concludes that there is a causal relationship between short-term SO₂ exposures (as short as a few minutes) and respiratory effects (ISA, section 5.2.1). The clearest evidence comes from the long-standing evidence base of controlled human exposure studies demonstrating effects related to asthma exacerbation including lung function decrements³⁸ and respiratory symptoms (e.g., cough, shortness of breath, chest tightness and wheeze) in people with asthma exposed to SO₂ for 5 to 10 minutes at elevated breathing rates (U.S. EPA, 1994; 2008 ISA; ISA, section 5.2.1). Bronchoconstriction, evidenced by decrements in lung function, that are sometimes accompanied by respiratory symptoms, occurs in these studies at SO₂ concentrations as low as 200 ppb in some people with asthma exposed while breathing at elevated rates, such as during exercise (ISA, section 5.2.1.2). In contrast, respiratory effects are not generally observed in other people with asthma (nonresponders³⁹) and healthy adults exposed to SO₂ concentrations below 1000 ppb while exercising (ISA, sections 5.2.1.2 and 5.2.1.7). Across studies, bronchoconstriction in response to SO₂ exposure is seen during respiratory conditions of elevated breathing rates, such as exercise, or with mouthpiece exposures that involve laboratory-facilitated rapid, deep breathing.⁴⁰ With these breathing conditions, breathing shifts from nasal breathing to oral (with mouthpiece) or oronasal breathing, which increases the concentrations of SO₂ reaching the tracheobronchial airways, where, depending on dose and the exposed individual’s susceptibility, it may cause

bronchoconstriction (ISA, sections 4.1.2.2, 4.2.2, and 5.2.1.2).

The current evidence base of controlled human exposure studies of individuals with asthma,⁴¹ is consistent with the evidence base from the last review, and is summarized in the ISA (ISA, section 5.2.1.2, Tables 5–1 and 5–2). With regard to effects related to asthma exacerbation, the main responses observed include increases in specific airway resistance (sRaw) and reductions in forced expiratory volume in one second (FEV₁) after 5- to 10-minute exposures. As recognized in the last review, the results of these studies indicate that among individuals with asthma, some individuals (e.g., responders) have a greater response to SO₂ than others, or a measurable response at lower exposure concentrations (ISA, p. 5–14). The SO₂-induced bronchoconstriction in these studies occurs rapidly (in just a few minutes) when individuals are exposed while breathing at an elevated rate, and is transient, with recovery occurring with a return to resting breathing rate or cessation of exposure, generally within an hour (ISA, p. 5–14, Table 5–2; Linn et al., 1984; Johns et al., 2010).

The currently available epidemiologic evidence includes studies reporting positive associations with short-term SO₂ exposures for asthma-related hospital admissions of children or emergency department visits by children (ISA, section 5.2.1). These findings provide supporting evidence of the EPA’s conclusion of a causal relationship between short-term SO₂ exposures and respiratory effects, for which the controlled human exposure studies are the primary basis (ISA, section 5.2.1.9). Among the epidemiologic studies newly available in this review, there are a limited number that have investigated SO₂ effects related to asthma exacerbation, with the most supportive evidence coming from studies of asthma-related hospital admissions of children or emergency department visits by children (ISA, section 5.2.1.2). As in the last review, areas of uncertainty in the epidemiologic evidence are related to the characterization of exposure based on the use of ambient air concentrations at fixed site monitors as surrogates for population exposure (often over a substantially sized area and for durations greater than an hour) and the

potential for confounding by PM⁴² or other copollutants (ISA, section 5.2.1). In general, the pattern of associations across the newly available studies is consistent with the studies available in the last review (ISA, p. 5–75).

For long-term SO₂ exposure and respiratory effects, the evidence base is somewhat augmented since the last review such that the current ISA concludes it to be suggestive of, but not sufficient to infer, a causal relationship (ISA, section 5.2.2). The support for this conclusion comes mainly from the limited epidemiologic findings of associations between long-term SO₂ concentrations and increases in asthma incidence combined with findings of laboratory animal studies involving newborn rodents that indicate a potential for SO₂ exposure to contribute to the development of asthma, especially allergic asthma, in children (ISA, section 1.6.1.2). The evidence showing increases in asthma incidence is coherent with results of animal toxicological studies that provide a pathophysiologic basis for the development of asthma. The overall body of evidence, however, lacks consistency (ISA, sections 1.6.1.2 and 5.2.2.7). Further, there are uncertainties associated with the epidemiologic evidence across the respiratory effects examined for long-term exposure (ISA, section 5.2.2.7).

For effects other than those involving the respiratory system, the current evidence is generally similar to the evidence available in the last review and leads to similar conclusions about the totality of adverse health effects. With regard to a relationship between short-term SO₂ exposure and total mortality, the ISA reaches the same conclusion as the previous review that the evidence is suggestive of, but not sufficient to infer, a causal relationship (ISA, section 5.5.1). This conclusion is based on the findings of previously and newly available multicity epidemiologic studies that report positive associations, accompanied by uncertainty with respect to the potential for SO₂ to have an independent effect on mortality. While recent studies have analyzed some key uncertainties and addressed data gaps from the previous review, uncertainties still exist. These uncertainties include that: The number of studies that examined copollutant confounding is limited; there is evidence of a reduction in the SO₂-mortality effect estimates (*i.e.*, relative risks) in copollutant models with

³⁸ The specific responses reported in the evidence base that are described in the ISA as lung function decrements are increased sRaw and FEV₁ (ISA, section 5.2.1.2).

³⁹ The data from controlled human exposure studies of people with asthma indicate that there are two subpopulations that differ in their airway responsiveness to SO₂, with the second subpopulation (non-responders) being insensitive to SO₂ bronchoconstrictive effects at concentrations as high as 1000 ppb (ISA, pp. 5–14 to 5–21; Johns et al., 2010).

⁴⁰ Laboratory-facilitated rapid deep breathing involves rapid, deep breathing through a mouthpiece that provides a mixture of oxygen with enough carbon dioxide to prevent an imbalance of gases in the blood usually resulting from hyperventilation. Breathing in the laboratory with this technique is referred to as eucapnic hypernea (ISA, p. 5–6).

⁴¹ The subjects in these studies have primarily been adults. The exception has been a few studies conducted in adolescents aged 12 to 18 years of age (ISA, pp. 5–22 to 5–23; PA, sections 3.2.1.3 and 3.2.1.4).

⁴² The potential for confounding by PM is of particular interest given that SO₂ is a precursor to PM (ISA, p. 1–7).

nitrogen dioxide and PM with mass median aerodynamic diameter nominally below 10 microns (PM₁₀); and a potential biological mechanism for mortality following short-term SO₂ exposures is lacking (ISA, section 1.6.2.4).

For other categories of health effects,⁴³ the currently available evidence is inadequate to infer the presence or absence of a causal relationship, mainly due to inconsistent evidence across specific outcomes and uncertainties regarding exposure measurement error, the potential for copollutant confounding, and potential modes of action (ISA, sections 5.3.1, 5.3.2, 5.4, 5.5.2, 5.6). These conclusions are consistent with those made in the previous review (ISA, p. xlviii).

Thus, given the strength of the evidence supporting the conclusion of a causal relationship between short-term exposure to SO₂ in ambient air and respiratory effects, in particular, asthma exacerbation in individuals with asthma, the focus in this review, as in prior reviews, is on such effects.

b. At-Risk Populations

In this review, we use the term “at-risk populations” to recognize populations with a quality or characteristic in common (*e.g.*, a specific pre-existing illness or specific age or lifestage) that contributes to them having a greater likelihood of experiencing SO₂-related health effects. People with asthma are at increased risk for SO₂-related health effects, specifically for respiratory effects, and specifically asthma exacerbation elicited by short-term exposures while breathing at elevated rates (ISA, sections 5.2.1.2 and 6.3.1). This conclusion of the at-risk status of people with asthma, as was the case in 2010, is based on the well-established and well-characterized evidence from controlled human exposure studies, supported by the evidence related to mode of action for SO₂ and evidence from epidemiologic studies (ISA, sections 5.2.1.2 and 6.3.1). Further, some individuals with asthma have a greater response to SO₂ than others with similar disease status (ISA, section 5.2.1.2; Horstman et al., 1986; Johns et al., 2010). The ISA also finds the evidence to be suggestive of increased risk for children and older adults, while noting some limitations and inconsistencies (ISA, sections

6.5.1.1 and 6.5.1.2).⁴⁴ Children with asthma, however, may be particularly at risk compared to adults with asthma (ISA, section 6.3.1). This conclusion reflects several characteristics of children as compared to adults, as summarized in section II.B of the proposal, that may put children with asthma at greater risk of SO₂-related bronchoconstrictive effects than adults with asthma.⁴⁵

The finding that some individuals with asthma have a greater response to SO₂ than others with similar disease status is quantitatively analyzed in a study, newly available in this review, that examined differences in lung function response using individual subject data available from five studies of individuals with asthma exposed to multiple concentrations of SO₂ for 5 to 10 minutes while breathing at elevated rates (Johns et al., 2010). As noted in the ISA, “these data demonstrate a bimodal distribution of airway responsiveness to SO₂ in individuals with asthma, with one subpopulation that is insensitive to the bronchoconstrictive effects of SO₂ even at concentrations as high as 1.0 ppm, and another subpopulation that has an increased risk for bronchoconstriction at low concentrations of SO₂” (ISA, p. 5–20). In analyses focused on the more sensitive subpopulation, the study demonstrated statistically significant increases in bronchoconstriction with exposures as low as 0.3 ppm (Johns et al., 2010). While such information provides documentation that some individuals with asthma have a greater response to SO₂ than others, the factors contributing to this greater susceptibility are not yet known (ISA, pp. 5–14 to 5–21).

⁴⁴ The current evidence for risk to older adults relative to other lifestages comes from epidemiologic studies, for which the findings are somewhat inconsistent, and studies with which there are uncertainties in the association with the health outcome (ISA, section 6.5.1.2).

⁴⁵ There are few controlled human exposure studies to inform our understanding of any differences in exposure concentrations associated with bronchoconstrictive effects in young children as compared to adults or adolescents as those studies have not included subjects younger than 12 years (ISA, p. 5–22). The ISA does not find the evidence to be adequate to conclude differential risk status for subgroups of children with asthma (ISA, sections 6.5.1.1 and 6.6). In consideration of the limited information regarding factors related to breathing habit, however, the ISA suggests that children with asthma approximately 5 to 11 years of age, and “particularly boys and perhaps obese children, might be expected to experience greater responsiveness (*i.e.*, larger decrements in lung function) following exposure to SO₂ than normal-weight adolescents and adults” (ISA, pp. 5–36 and 4–7).

c. Exposure Concentrations Associated With Health Effects

Our understanding of exposure duration and concentrations associated with SO₂-related health effects is largely based, as it was in the last review, on the longstanding evidence base of controlled human exposure studies. These studies in individuals with asthma exposed to SO₂ for 5 to 10 minutes while breathing at elevated rates demonstrate clear and consistent increases in magnitude and occurrence of decrements in lung function (*e.g.*, increased sRaw and reduced FEV₁) and in occurrence of respiratory symptoms with increasing SO₂ exposure (ISA, section 1.6.1.1, Table 5–2 and pp. 5–35, 5–39). Further, the evidence base demonstrates the occurrence of SO₂-related effects resulting from peak exposures on the order of minutes⁴⁶ and other short-term exposures have been found to elicit a similar bronchoconstrictive response for somewhat longer (*e.g.*, 30-minute) exposure durations (ISA, p. 5–14; Kehrl et al., 1987).

The controlled human exposure studies of people with asthma further demonstrate⁴⁷ that SO₂ concentrations as low as 200 to 300 ppb for 5 to 10 minutes elicited moderate or greater lung function decrements (a decrease in FEV₁ of at least 15% or an increase in sRaw of at least 100%) in a subset of the study subjects (ISA, sections 1.6.1.1 and 5.2.1). The percent of individuals affected, the severity of response, and the accompanying occurrence of respiratory symptoms increased with increasing SO₂ exposure concentrations (ISA, section 5.2.1). At concentrations ranging from 200 to 300 ppb, the lowest levels for which the ISA describes the occurrence of moderate or greater SO₂-related lung function decrements, as many as 33% of exercising study subjects with asthma experienced such decrements in lung function (ISA,

⁴⁶ While the air quality metrics in the epidemiologic studies are for time periods longer than the 5- to 10-minute exposures eliciting effects in the controlled human exposure studies, these studies may not adequately capture the spatial and temporal variation in SO₂ concentrations and cannot address whether observed associations of asthma-related emergency room visits or hospital admissions with 1-hour to 24-hour ambient air concentration metrics are indicative of a potential response to exposure on the order of hours or much shorter-term exposure to peaks in SO₂ concentration (ISA, pp. 5–49, 5–59, 5–25).

⁴⁷ The findings summarized in Table 5–2 of the ISA and in Table 3–1 of the PA are based on results that have been adjusted for effects of exercise in clean air so that they have separated out any effect of exercise in causing bronchoconstriction and reflect only the SO₂-specific effect.

⁴³ The other categories evaluated in the ISA include cardiovascular effects with short- or long-term exposures; reproductive and developmental effects; and cancer and total mortality with long-term exposures (ISA, section 1.6.2 and Table 1–1).

section 5.2.1, Table 5–2).⁴⁸ At concentrations at or above 400 ppb, moderate or greater decrements in lung function occurred in as many as approximately 30 to 60% of exercising individuals with asthma, and compared to the results for exposures at 200 to 300 ppb, a larger percentage of individuals with asthma experienced the more severe decrements in lung function (*i.e.*, an increase in sRaw of at least 200%, and/or a 20% or more decrease in FEV₁) at these higher concentrations (ISA, section 5.2.1.2, p. 5–9 and Table 5–2). Additionally, at concentrations at or above 400 ppb, moderate or greater decrements in lung function were frequently accompanied by respiratory symptoms, such as cough, wheeze, chest tightness, or shortness of breath, with some of these findings reaching statistical significance at the study group level (ISA, Table 5–2 and section 5.2.1).

Two hundred ppb is the lowest exposure concentration for which individual study subject data for percent changes in sRaw and FEV₁ are available from studies that have assessed the SO₂ effect *versus* the effect of exercise in clean air (ISA, Table 5–2 and Figure 5–1). In nearly all of these studies (and all of these studies with such data for concentrations from 200 to 400 ppb), study subjects breathed freely (*e.g.*, without using a mouthpiece).⁴⁹ In studies that tested 200 ppb exposures, a portion of the exercising study subjects with asthma (approximately 8 to 9%) responded with at least a doubling in sRaw or an increase in FEV₁ of at least 15% (ISA, Table 5–2 and Figure 5–2; PA, Table 3–1; Linn et al., 1983a; Linn et al., 1987).

With regard to exposure concentrations below 200 ppb, very limited evidence is available for concentrations as low as 100 ppb. Some differences in methodology and the reporting of results complicate comparison of the studies with 100 ppb exposure to studies using higher exposures. In the studies evaluating the 100 ppb concentration level, subjects were exposed by mouthpiece rather than freely breathing in an exposure chamber (Sheppard et al., 1981; Sheppard et al., 1984; Koenig et al.,

1989; Koenig et al., 1990; Trenga et al., 2001; ISA, section 5.2.1.2; PA, section 3.2.1.3). Additionally, only a few of these studies included an exposure to clean air while exercising that would have allowed for distinguishing the effect of SO₂ from the effect of exercise in causing bronchoconstriction (Sheppard et al., 1981; Sheppard et al., 1984; Koenig et al., 1989). In those few cases, a limited number of adult and adolescent study subjects were reported to experience small changes in sRaw, with the magnitudes of change appearing to be smaller than responses reported from studies at exposures of 200 ppb or more.^{50 51} Thus, while the studies evaluating 100 ppb exposures are limited and their interpretation is complicated by the use of different reporting of results and exposure methods that differ from those used in studies of higher concentrations, the 100 ppb studies do not indicate that exposure at 100 ppb results in as much as a doubling in sRaw, based on the extremely few adults and adolescents tested (Sheppard et al., 1981; Sheppard et al., 1984; Koenig et al., 1989).

Specific exposure concentrations that may be eliciting respiratory responses are not available from the epidemiologic evidence base, which includes studies that find associations with outcomes such as asthma-related emergency

department visits and hospital admissions. For example, in noting limitations of epidemiologic studies with regard to uncertainties in SO₂ exposure estimates, the ISA recognized that “[it] is unclear whether SO₂ concentrations at the available fixed site monitors adequately represent variation in personal exposures especially if peak exposures are as important as indicated by the controlled human exposure studies” (ISA, p. 5–37). This extends the observation of the 2008 ISA that “it is possible that these epidemiologic associations are determined in large part by peak exposures within a 24-h[our] period” (2008 ISA, p. 5–5). Another key uncertainty in the epidemiologic evidence available in this review, as in the last review, is potential confounding by copollutants, particularly PM, given the important role of SO₂ as a precursor to PM in ambient air (ISA, p. 5–5). Among the U.S. epidemiologic studies reporting mostly positive and sometimes statistically significant associations between ambient SO₂ concentrations and emergency department visits or hospital admissions (some conducted in multiple locations), few studies have attempted to address the uncertainty of potential copollutant confounding. For example, as in the last review, there are three U.S. studies for which the SO₂ effect estimate remained positive and statistically significant in copollutant models with PM. No additional such studies have been newly identified in this review that might inform this issue (83 FR 26765, June 8, 2018). Thus, such uncertainties regarding copollutant confounding, as well as exposure measurement error, remain in the currently available epidemiologic evidence base (ISA, p. 5–6).

d. Potential Impacts on Public Health

In general, the magnitude and implications of potential impacts on public health are dependent upon the type and severity of the effect, as well as the size and other features of the population affected (ISA, section 1.7.4; PA, 3.2.1.5). The information discussed in this section indicates the potential for exposures to SO₂ in ambient air to be of public health importance. Such considerations contributed to the basis for the 2010 decision to appreciably strengthen the primary SO₂ NAAQS and to establish a 1-hour standard to provide the requisite public health protection for at-risk populations from short-term exposures of concern.

The potential public health impacts of SO₂ concentrations in ambient air relate to respiratory effects of short-term exposures and particularly those effects

⁴⁸ Additionally, analyses of data from the full set of these studies that focused only on the results for the study subjects that are responsive to SO₂ at exposure concentrations below 1000 ppb found there to be statistically significant increases in lung function decrements occurring at 300 ppb (ISA, p. 153; Johns et al., 2010).

⁴⁹ Studies of free-breathing subjects generally make use of small rooms in which the atmosphere is experimentally controlled such that study subjects are exposed by freely breathing the surrounding air (*e.g.*, Linn et al., 1987).

⁵⁰ For example, although individual study subject data for SO₂-attributable changes in sRaw in these studies are not available in the terms needed to summarize the responses consistent with the study result summaries in the ISA, Table 5–2 (*e.g.*, percent change), the increase in sRaw reported for two young adult subjects exposed to 100 ppb in the study by Sheppard et al. (1981) was slightly less than half the response of these subjects at 250 ppb, and the results for the study by Sheppard et al. (1984) indicate that none of the eight study subjects experienced as much as a doubling in sRaw in response to the mouthpiece exposure to 125 ppb while exercising (in Table 2 of Sheppard et al., 1984, concentrations calculated to cause a doubling of sRaw in all subjects are higher than 125 ppb, the lowest exposure concentration). In the study of adolescents (aged 12 to 18 years), among the three individual study subjects for which total respiratory resistance appears to have increased with SO₂ exposure, the magnitude of increase in that metric after consideration of the response to exercise appears to be less than 100% in each subject (Koenig et al., 1989).

⁵¹ In a mouthpiece exposure system, the inhaled breath completely bypasses the nasal passages where SO₂ is efficiently removed, thus allowing more of the inhaled SO₂ to penetrate the tracheobronchial airways (2008 ISA, p. 3–4; ISA, section 4.1.2.2). This allowance of deeper penetration of SO₂ into the tracheobronchial airways, as well as limited evidence comparing responses by mouthpiece and chamber exposures, leads to the expectation that SO₂-responsive people with asthma breathing SO₂ using a mouthpiece, particularly while breathing at elevated rates, would experience greater lung function responses than if exposed to the same test concentration while freely breathing in an exposure chamber (ISA, p. 5–23; Linn et al., 1983b).

associated with asthma exacerbation in people with asthma. As summarized above in section II.A.2.a, these effects include bronchoconstriction resulting in decrements in lung function and elicited by short-term exposures during periods of elevated breathing rate. Consistent with these SO₂-related effects, asthma-related health outcomes such as emergency department visits and hospital admissions have been positively associated with ambient air concentrations of SO₂ in epidemiologic studies (ISA, section 5.2.1.9).

As summarized in section II.A.2.b above, people with asthma are the population at risk for SO₂-related effects and children with asthma are considered to be at relatively greater risk than other age groups (ISA, section 6.3.1). The evidence supporting this conclusion comes primarily from studies of individuals with mild to moderate asthma,⁵² with very little evidence available for individuals with severe asthma. The evidence base of controlled human exposure studies of exercising people with asthma provides very limited information indicating that there are similar responses (in terms of relative decrements in lung function in response to SO₂ exposures) across individuals with asthma of differing severity.⁵³ However, the two available studies “suggest that adults with moderate/severe asthma may have more limited reserve to deal with an insult compared with individuals with mild asthma” (ISA, p. 5–22; Linn et al., 1987; Trenga et al., 1999). Consideration of such baseline differences among members of at-risk populations and of the relative transience or persistence of these responses (e.g., as noted in section II.A.2.a above), as well as other factors,

is important to characterizing implications for public health, as recognized by the ATS in their recent statement on evaluating adverse health effects of air pollution (Thurston et al., 2017).

Multiple statements by the ATS on what constitutes an adverse health effect of air pollution inform the Administrator’s judgment on the public health significance of SO₂-related effects, particularly those with the potential to occur under air quality conditions allowed by the current standard. Building on the earlier statement by the ATS that was considered in the last review (ATS, 2000a), the recent policy statement by the ATS provides a general framework for interpreting evidence that proposes a “set of considerations that can be applied in forming judgments” for this context (Thurston et al., 2017). The earlier ATS statement, in addition to emphasizing clinically relevant effects (e.g., the adversity of small transient changes in lung function metrics in combination with respiratory symptoms), also emphasized both the need to consider changes in “the risk profile of the exposed population” and effects on the portion of the population that may have a diminished reserve that could put its members at potentially increased risk of effects from another agent (ATS, 2000a). The consideration of effects on individuals with preexisting diminished lung function continues to be recognized as important in the more recent ATS statement (Thurston et al., 2017). All of these concepts, including the consideration of the magnitude or severity of effects occurring in just a subset of study subjects, as well as the consideration of persistence or transience of effects,⁵⁴ are recognized as important considerations in the more recent ATS statement (Thurston et al., 2017) and continue to be relevant to consideration of the evidence base for SO₂.

Such concepts are routinely considered by the Agency in weighing public health implications for decisions on primary NAAQS, as summarized in section I.A above. For example, in deliberations on a standard that provides the requisite public health protection under the Act, the EPA traditionally recognizes the nature and severity of the health effects involved, recognizing the greater public health significance of more severe health effects, including, for example, responses that have been documented to

be accompanied by respiratory symptoms, and of the risk of repeated occurrences of effects (76 FR 54308, August 31, 2011; 80 FR 65292, October 26, 2015). Another area of consideration is characterization of the population at risk, including its size and, as pertinent, the exposure/risk estimates in this regard. Such factors related to public health significance, and the kind and degree of associated uncertainties, are considered by the EPA in addressing the CAA requirement that the primary NAAQS be requisite to protect public health, including an adequate margin of safety, as summarized in section I.A above.

Ambient air concentrations of SO₂ vary considerably in areas near sources, but concentrations in the vast majority of the U.S. are well below the current standard (PA, Figure 2–7). Thus, while the population counts discussed below may convey information and context regarding the size of populations living near sizeable sources of SO₂ emissions in some areas, the concentrations in most areas of the U.S. are well below the conditions assessed in the REA.

With regard to the size of the U.S. population at risk of SO₂-related effects, the National Center for Health Statistics data from the 2015 National Health Interview Survey (NHIS)⁵⁵ indicate that approximately 8% of the U.S. population has asthma (PA, Table 3–2; CDC, 2017). The estimated prevalence is greater in children (8.4% for children less than 18 years of age) than adults (7.6%) (PA, Table 3–2; CDC, 2017). Asthma was the leading chronic illness affecting children in 2012, the most recent year for which such an evaluation is available (Bloom et al., 2013). As noted in the PA, there are more than 24 million people with asthma currently in the U.S., including more than 6 million children (PA, sections 3.2.2.4 and 3.2.4). Among populations of different races or ethnicities, black non-Hispanic and Puerto Rican Hispanic children are estimated to have the highest

⁵² These studies categorized asthma severity based mainly on the individual’s use of medication to control asthma, such that individuals not regularly using medication were classified as minimal/mild, and those regularly using medication as moderate/severe (Linn et al., 1987). The ISA indicates that the moderate/severe grouping would likely be classified as moderate by today’s asthma classification standards due to the level to which their asthma was controlled and their ability to engage in moderate to heavy levels of exercise (ISA, p. 5–22; Johns et al., 2010; Reddel, 2009).

⁵³ The ISA identifies two studies that have investigated the influence of asthma severity on responsiveness to SO₂, with one finding that a larger change in lung function observed in the moderate/severe asthma group was attributable to the exercise component of the study protocol while the other did not assess the role of exercise in differences across individuals with asthma of differing severity (Linn et al., 1987; Trenga et al., 1999). Based on the criteria used in the study by Linn et al. (1987) for placing individuals in the “moderate/severe” group, however, the asthma of these individuals “would likely be classified as moderate by today’s classification standards” (ISA, p. 5–22; Johns et al., 2010; Reddel, 2009).

⁵⁴ In speaking of transient effects, the recent statement refers to effects lasting on the order of hours (Thurston et al., 2017).

⁵⁵ The NHIS is conducted annually by the U.S. Centers for Disease Control and Prevention. The NHIS collects health information from a nationally representative sample of the noninstitutionalized U.S. civilian population through personal interviews. Participants (or parents of participants if the survey participant is a child) who have ever been told by a doctor or other health professional that the participant had asthma and reported that they still have asthma were considered to have current asthma. Data are weighted to produce nationally representative estimates using sample weights; estimates with a relative standard error greater than or equal to 30% are generally not reported (Mazurek and Syamlal, 2018). The NHIS estimates described here are drawn from the 2015 NHIS, Table 4–1 (<https://www.cdc.gov/asthma/nhis/2015/table4-1.htm>).

prevalence, at 13.4% and 13.9%, respectively. Asthma prevalence is also increased among populations in poverty, with the prevalence estimated to be 11.1% among people living in households below the poverty level compared to 7.2% of those living above it (CDC, 2017).

With regard to the potential for exposure of the populations at risk from exposures to SO₂ in ambient air, while SO₂ concentrations have generally declined across the U.S. since 2010 when the current standard was set (PA, Figures 2–5 and 2–6), there are numerous areas where SO₂ concentrations still contribute to air quality that is near or above the standard. For example, the PA noted that the air quality monitoring data for the 2014–2016 period indicated there to be 15 core-based statistical areas⁵⁶ with air quality exceeding the primary SO₂ standard (design values⁵⁷ were above the existing standard level of 75 ppb), of which a number have sizeable populations (PA, section 3.2.2.4). In addition to this evidence of elevated ambient air SO₂ concentrations, there are limitations in the monitoring network with regard to the extent that it might be expected to capture all areas with the potential to exceed the standard (e.g., 75 FR 35551; June 22, 2010). In recognition of these limitations, we also examined the proximity of populations to sizeable SO₂ point sources using the recently available emissions inventory information (2014 NEI), which is also characterized in the ISA (PA, section 3.2.2.4, Appendix F; ISA, section 2.2.2). This information indicates that there are more than 300,000 and 60,000 children living within 1 km of facilities emitting at least 1000 and 2000 tpy of SO₂, respectively (PA, section 3.2.2.4). Within 5 km of such sources, the numbers are approximately 1.4 million and 700,000, respectively (PA, Table

3–5). While information on SO₂ concentrations in locations of maximum impact of such sources is not available for all these areas, and SO₂ concentrations vary appreciably near sources, simply considering the 2015 national estimate of asthma prevalence of approximately 8% (noted above), this information would suggest there may be as many as 24,000 to more than 100,000 children with asthma that live in areas near substantially sized sources of SO₂ emissions to ambient air (PA, section 3.2.1.5; Table 3–5).

3. Overview of Risk and Exposure Information

Our consideration of the scientific evidence available in the current review (summarized in section II.A.2 above), as at the time of the last review, is informed by results from a quantitative analysis of estimated population exposure and associated risk of respiratory effects that the evidence indicates to be elicited in some portion of exercising people with asthma by short-term exposures to elevated SO₂ concentrations, e.g., such as exposures lasting 5 or 10 minutes. This analysis, for the air quality scenario of just meeting the current standard, estimates two types of risk metrics in terms of percentages of the simulated at-risk populations of adults with asthma and children with asthma (REA, section 4.6). The first of the two risk metrics is based on comparison of the estimated 5-minute exposure concentrations for individuals breathing at elevated rates to 5-minute exposure concentrations of potential concern (benchmark concentrations). The second risk metric utilizes exposure-response (E–R) information from studies in which subjects experienced moderate or greater lung function decrements (specifically a doubling or more in sRaw) to estimate the portion of the simulated at-risk population likely to experience one or more days with a SO₂-related increase in sRaw of at least 100% (REA, sections 4.6.1 and 4.6.2). Both metrics are used in the REA to characterize health risk associated with 5-minute peak SO₂ exposures among simulated at-risk populations during periods of elevated breathing rates. These risk metrics were also derived in the REA for the last review and the associated estimates informed the 2010 decision that established the current standard (75 FR 35546–35547, June 22, 2010).

The following subsections provide brief overviews of the key aspects of the design and methods of the quantitative assessment in this review (section II.A.3.a) and the important uncertainties

associated with these analyses (section II.A.3.b). The results of the analyses are summarized in section II.A.3.c. These overviews are drawn from the summary presented in section II.C of the proposal (83 FR 26767, June 8, 2018).

a. Key Design Aspects

In this section, we provide a brief overview of key aspects of the quantitative exposure and risk assessment conducted for this review and summarized in more detail in section II.C.1 of the proposal (83 FR 26767, June 8, 2018), including the study areas, air quality adjustment approach, modeling tools, at-risk populations simulated, and benchmark concentrations assessed. The assessment is described in detail in the REA and summarized in section 3.2.2 of the PA.

The REA focuses on air quality conditions that just meet the current standard, and the analyses estimate exposure and risk for at-risk populations in three urban study areas in: (1) Fall River, MA; (2) Indianapolis, IN; and (3) Tulsa, OK. The three study areas present a variety of circumstances related to population exposure to short-term peak concentrations of SO₂ in ambient air, including a range in total population size, different mixtures of SO₂ emissions sources, and three different climate regions of the U.S.: The Northeast, Ohio River Valley (Central), and South (REA, section 3.1; Karl and Koss, 1984).⁵⁸ The latter two regions comprise the part of the U.S. with generally the greatest prevalence of elevated SO₂ concentrations and large emissions sources (PA, Figure 2–7 and Appendix F). Accordingly, the three study areas illustrate three different patterns of exposure to SO₂ concentrations in a populated area in the U.S. (REA, section 5.1). While the same air quality scenario is simulated in all three study areas (conditions that just meet the current standard), study-area-specific characteristics related to sources, meteorology, topography and population contribute to variation in the estimated magnitude of exposure and associated risk across study areas.

As indicated by this case study approach to assessing exposure and risk, the analyses in the REA are intended to provide assessments of an air quality scenario just meeting the current standard for a small, diverse set of study areas and associated exposed at-risk populations that will be informative to the EPA's consideration of potential

⁵⁶ Core-based statistical area (CBSA) is a geographic area defined by the U.S. Office of Management and Budget to consist of an urban area of at least 10,000 people in combination with its surrounding or adjacent counties (or equivalents) with which there are socioeconomic ties through commuting (https://www.census.gov/geo/reference/gtc/gtc_cbsa.html). Populations in the 15 CBSAs referred to in the body of the text range from approximately 30,000 to more than a million (based on 2016 U.S. Census Bureau estimates).

⁵⁷ A design value is a statistic that describes the air quality status of a given area relative to the level of the standard, taking into account the averaging time and form (as well as indicator). Thus, design values for the SO₂ NAAQS are in terms of 3-year averages of annual 99th percentile 1-hour daily maximum concentrations of SO₂. Design values are typically used to assess whether the NAAQS is violated, to classify nonattainment areas, to track air quality trends and progress toward meeting the NAAQS and to develop control strategies.

⁵⁸ Additionally, continuous 5-minute ambient air monitoring data (i.e., all 5-minute values for each hour) are available in all three study areas (REA, section 3.2).

exposures and risks that may be associated with the air quality conditions occurring under the current SO₂ standard. The REA analyses are not designed to provide a comprehensive national assessment of such conditions (REA, section 2.2). The objective of the REA is not to present an exhaustive analysis of exposure and risk in areas of the U.S. that currently just meet the standard or an analysis of exposure and risk associated with air quality adjusted down to just meet the standard in areas that currently do not meet the standard.⁵⁹ Rather, the purpose is to assess, based on current tools and information, the potential for exposures and risks beyond those indicated by the information available at the time the current standard was established. Accordingly, capturing an appropriate level of diversity in study areas and air quality conditions (that reflect the current standard scenario) is important to the role of the REA in informing the EPA's understanding of, and conclusions on, the public health protection afforded by the current standard (PA, section 3.2.2.2).

A broad variety of spatial and temporal patterns of SO₂ concentrations can exist when ambient air concentrations just meet the current standard. These patterns will vary due to many factors including the types of emissions sources in a study area and several characteristics of those sources, such as magnitude of emissions and facility age, use of various control technologies, patterns of operation, and local factors, as well as local meteorology. Estimates derived using the particular analytical approaches and methodologies for characterizing the study area-specific air quality provide an indication of this variability in the spatial and temporal patterns of SO₂ concentrations occurring under air quality conditions just meeting the current standard. In light of the uncertainty associated with these concentration estimates, the REA presents results from two different approaches to adjusting air quality to just meet the current standard (described in more detail in sections 3.4 and 6.2.2.2 of the REA).⁶⁰

⁵⁹ Nor is the objective of the REA to provide a comprehensive assessment of current air quality across the U.S.

⁶⁰ The first approach uses the highest design value across all modeled air quality receptors to estimate the amount of SO₂ concentration reduction needed to adjust the air quality concentrations in each area to just meet the standard (REA, section 3.4). In recognition of potential uncertainty in the first approach, the second approach uses the air quality receptor having the 99th percentile of the distribution of design values (instead of the receptor with the maximum design value) to estimate the

Consistent with the health effects evidence summarized in section II.A.2 above, the focus of the REA is on short-term (5-minute) exposures of individuals with asthma in the simulated populations during times when they are breathing at an elevated rate. Five-minute concentrations in ambient air were estimated for the current standard scenario using a combination of 1-hour concentrations from the EPA's preferred near-field dispersion model, the American Meteorological Society/EPA regulatory model (AERMOD), with adjustment such that they just meet the current standard, and relationships between 1-hour and 5-minute concentrations occurring in the local ambient air monitoring data. The air quality modeling step was taken to capture the spatial variation in ambient SO₂ concentrations across each urban study area. Such variation can be relatively high in areas affected by large point sources and is unlikely to be captured by the limited number of monitoring locations in each area. The modeling step yields 1-hour concentrations at model receptor sites across the modeling domain across the 3-year modeling period (consistent with the 3-year form of the standard). These concentrations were adjusted such that the air quality modeling receptor location(s) with the highest concentrations just met the current standard. Rather than applying the same adjustment to concentrations at all receptors in a study area, the adjustment was derived by focusing on reducing emissions from the source(s) contributing the most to the standard exceedances (REA, section 3.4 and 6.2.2.1). Relationships between 1-hour and 5-minute concentrations at local monitors were then used to estimate 5-minute concentrations associated with the adjusted 1-hour concentrations across the 3-year period at all model receptor locations in each of the three study areas (REA, section 3.5). In this way, available continuous 5-minute ambient air monitoring data (datasets with all twelve 5-minute concentrations in each hour) were used to reflect the fine-scale temporal variation in SO₂ concentrations documented by these data. This approach was used in recognition of the limitations associated with air quality modeling at this fine temporal scale, *e.g.*, limitations in the time steps of currently available model

SO₂ concentration reductions needed to adjust the air quality to just meet the standard, setting all receptors at or above the 99th percentile to just meet the standard (REA, section 6.2.2.2).

input data such as for emissions estimates.

The estimated 5-minute concentrations in ambient air across each study area were then used together with the Air Pollutants Exposure (APEX) model, a probabilistic human exposure model that simulates the activity of individuals in the population, including their exertion levels and movement through time and space, to estimate concentrations of 5-minute SO₂ exposure events in indoor, outdoor, and in-vehicle microenvironments. The use of APEX for estimating exposures allows for consideration of factors that affect exposures that are not addressed by consideration of ambient air concentrations alone. These factors include: (1) Attenuation in SO₂ concentrations expected to occur in some indoor microenvironments; (2) the influence of human activity patterns on the time series of exposure concentrations; and (3) accounting for human physiology and the occurrence of elevated breathing rates concurrent with SO₂ exposures (REA, section 2.2). These factors are all key to appropriately characterizing exposure and associated health risk for SO₂.⁶¹

The at-risk populations for which exposure and risk are estimated (children and adults with asthma) ranges from 8.0 to 8.7% of the total populations (ages 5–95) in the exposure modeling domains for the three study areas (REA, section 5.1). The percent of children with asthma in the simulated populations ranges from 9.7 to 11.2% across the three study areas (REA, section 5.1). Within each study area the percent varies with age, sex and whether family income is above or below the poverty level (REA, section 4.1.2, Appendix E).⁶² This variation is greatest in the Fall River study area, with census block level, age-specific asthma prevalence estimates ranging from 7.9 to 18.6% for girls and from 10.7 to 21.5% for boys (REA, Table 4–1).

The REA for this review, consistent with the analyses in the last review, uses the APEX model estimates of 5-minute exposure concentrations for simulated individuals with asthma while breathing at elevated rates to

⁶¹ The exposure modeling performed for this review, including ways in which it has been updated since the 2009 REA are summarized in section II.C of the proposal and described in detail in the REA (*e.g.*, REA, Chapter 4 and Appendices E through I).

⁶² As described in section 4.1.2 and Appendix E of the REA, asthma prevalence in the exposure modeling domain is estimated based on national prevalence information and study area demographic information related to age, sex and poverty status.

characterize health risk in two ways (REA, section 4.5). The first is the percentage of the simulated at-risk populations expected to experience days with 5-minute exposures, while breathing at elevated rates, that are at or above a range of benchmark levels. The second is the percentage of these populations expected to experience days with an occurrence of a doubling or tripling of sRaw.

The benchmark concentrations used in the comparison-to-benchmarks analysis (400, 300, 200 and 100 ppb) were identified based on consideration of the evidence discussed in section II.A.2 above. In particular, benchmark concentrations of 400 ppb, 300 ppb, and 200 ppb were based on concentrations included in the well-documented controlled human exposure studies summarized in section II.A.2 above, and the 100 ppb benchmark was selected in consideration of uncertainties with regard to lower concentrations and population groups with more limited data (REA, section 4.5.1). At the upper end of this range, 400 ppb represents the lowest concentration in free-breathing controlled human exposure studies of exercising people with asthma where moderate or greater lung function decrements occurred that were often statistically significant at the group mean level and were frequently accompanied by respiratory symptoms, with some increases in these symptoms also being statistically significant at the group level (ISA, Section 5.2.1.2 and Table 5–2). At 300 ppb, statistically significant increases in lung function decrements (specifically reductions in FEV₁) have been documented in analyses of the subset of controlled human exposure study subjects with asthma that are responsive to SO₂ at concentrations below 600 or 1000 ppb (ISA, pp. 5–85 and 5–153 and Table 5–21; Johns et al., 2010). The 200 ppb benchmark concentration represents the lowest level for which studies are available that have assessed the SO₂ effect *versus* the effect of exercise in clean air and for which individual study subject data are available to summarize percent changes in sRaw and FEV₁; moderate or greater lung function decrements were documented in some of these study subjects (ISA, Table 5–2 and Figure 5–1; PA, Table 3–1; REA, section 4.6.1). With regard to exposure concentrations below 200 ppb, limited data are available for exposures at 100 ppb that, while not directly comparable to the data at higher concentrations because of differences in methodology

and metrics reported,⁶³ do not indicate that study subjects experienced responses of a magnitude as high as a doubling in sRaw. However, in consideration of some study subjects with asthma experiencing moderate or greater decrements in lung function at the 200 ppb exposure concentration (approximately 8 to 9% of the study group) and of the paucity or lack of any specific study data for some groups of individuals with asthma, such as primary-school-age children and those with more severe asthma (described in sections II.B.3 and II.C.1 of the proposal), a benchmark concentration of 100 ppb (one half the 200 ppb exposure concentration) was also included in the analyses.

The E–R function for estimating risk of lung function decrements was developed from the individual subject results for sRaw from the controlled exposure studies of exercising, freely breathing people with asthma exposed to SO₂ concentrations from 1000 ppb down to as low as 200 ppb (REA, Table 4–11). In addition to the assessment of these studies and their results in past NAAQS reviews, there has been extensive evaluation of the individual subject results, including a data quality review in the 2010 review of the primary SO₂ standard (Johns and Simmons, 2009) and detailed analysis in two subsequent publications (Johns et al., 2010; Johns and Linn, 2011). The E–R function was derived from the sRaw responses reported in the controlled exposure studies as summarized in the ISA in terms of percent of study subjects experiencing responses of a magnitude equal to a doubling or tripling or more (e.g., ISA, Table 5–2; Long and Brown, 2018; REA, section 4.6.2). Across the exposure range from 200 to 1000 ppb, the percentage of exercising study subjects with asthma having at least a doubling of sRaw increases from about 8–9% (at exposures of 200 ppb) up to approximately 50–60% (at exposures of 1000 ppb) (REA, Table 4–11).

b. Key Limitations and Uncertainties

While the general approach and methodology for the exposure-based assessment in this review is similar to that used in the last review, there are a number of ways in which the current

analyses are different; some differences reflect improvements and, in some cases, reflect improvements that may address limitations of the 2009 assessment. For example, the number and type of study areas assessed has been expanded since the last review, and input data and modeling approaches have improved in a number of ways, including the availability of continuous 5-minute air monitoring data at monitors within the three study areas. In addition, the REA for the current review extends the time period of simulation to a 3-year simulation period, consistent with the form established for the now-current standard. Further, the years simulated reflect more recent emissions and circumstances subsequent to the 2010 decision.

In characterizing uncertainty associated with the risk and exposure estimates in this review, the REA used a qualitative uncertainty characterization approach adapted from the World Health Organization (WHO) approach for characterizing uncertainty in exposure assessment (WHO, 2008) accompanied by quantitative sensitivity analyses of key aspects of the assessment approach (REA, chapter 6).⁶⁴ The approach used in the REA places a greater focus on evaluating the direction and the magnitude of the uncertainty (i.e., qualitatively rating how the source of uncertainty, in the presence of alternative information, may affect the estimates of exposure and risk). The evaluation considers the limitations and uncertainties underlying the analysis inputs and approaches and the relative impact that these uncertainties may have on the resultant exposure/risk estimates. Consistent with the WHO (2008) approach, the overall impact of the uncertainty is then characterized by the extent or magnitude of the impact of the uncertainty (e.g., high, moderate, low) as implied by the relationship between the source of the uncertainty and the exposure/risk output. The REA also evaluated the direction of influence, indicating how the source of uncertainty was judged to affect the exposure and risk estimates (e.g., likely to produce over- or under-estimates).

Several areas of uncertainty are identified as particularly important, with some similarities to those recognized in the last review. Generally, these areas of uncertainty include estimation of the spatial distribution of SO₂ concentrations across each study

⁶³ As explained in section II.B.3 of the proposal, these studies involved exposures via mouthpiece, and only a few of these studies included an exposure to clean air while exercising that would have allowed for determining the effect of SO₂ *versus* that of exercise in causing bronchoconstriction and associated lung function decrements (ISA, section 5.2.1.2; PA, section 3.2.1.3).

⁶⁴ The approach used has been applied in REAs for past NAAQS review for nitrogen oxides, carbon monoxide, and ozone (U.S. EPA, 2008b; 2010; 2014d), as well as SO_x (U.S. EPA, 2009).

area under air quality conditions just meeting the current standard, including the fine-scale temporal pattern of 5-minute concentrations. They also include uncertainty with regard to population groups and exposure concentrations for which the health effects evidence base is limited or lacking (PA, section 3.2.2.3).

With regard to the spatial distribution of SO₂ concentrations, there is some uncertainty associated with the ambient air concentration estimates in the air quality scenarios assessed. A more detailed characterization of contributors to this uncertainty is presented in section 6.2 of the REA, with a brief overview provided here. Some aspects of the assessment approach contributing to this uncertainty include estimation of the 1-hour concentrations and the approach employed to adjust the air quality surface to concentrations just meeting the current standard (REA, section 6.2.2.2; PA, section 3.2.2.2), as well as the estimation of 1-hour ambient air concentrations resulting from emissions sources not explicitly modeled. All of these assessment approaches influence the resultant temporal and spatial pattern of concentrations and associated exposure circumstances represented in the study areas (REA, sections 6.2.1 and 6.2.2). There is also uncertainty in the estimates of 5-minute concentrations in ambient air across the modeling receptors in each study area. The ambient air monitoring dataset available to inform the 5-minute estimates, much expanded in this review over the dataset available in the last review, is used to draw on relationships occurring at one location and over one range of concentrations to estimate the fine-scale temporal pattern in concentrations at the other locations. While this is an important area of uncertainty in the REA results, because the ambient air 5-minute concentrations are integral to the 5-minute estimates of exposure, the approach used to represent fine-scale temporal variability in the three study areas is strongly based in the available information and has been evaluated in the REA (REA, Table 6–3; sections 3.5.2 and 3.5.3).

Another important area of uncertainty in the REA is particular to the lung function risk estimates derived for exposure concentrations below those represented in the evidence base (REA, Table 6–3). The E–R function on which the risk estimates are based generates non-zero predictions of the percentage of the at-risk population expected to experience a day with the occurrence of at least a doubling of sRaw for all 5-minute exposure concentrations each

simulated individual encounters while breathing at an elevated rate. The uncertainty in the response estimates increases substantially with decreasing exposure concentrations below those well represented in the data from the controlled human exposure studies (*i.e.*, below 200 ppb).

Additionally, the assessment focuses on the daily maximum 5-minute exposure during a period of elevated breathing rate, summarizing results in terms of the days on which the magnitude of such exposure exceeds a benchmark or contributes to a doubling or tripling of sRaw. Although there is some uncertainty associated with the potential for additional, uncounted events in the same day, the health effects evidence indicates a lack of a cumulative effect of multiple exposures over several hours or a day (ISA, section 5.2.1.2) and a reduced response to repeated exercising exposure events over an hour (Kehrl et al., 1987). Further, information is somewhat limited with regard to the length of time after recovery from one exposure by which a repeat exposure would elicit an effect similar to that of the initial exposure event (REA, Table 6–3). In addition, there is uncertainty regarding the potential influence of co-occurring pollutants on the relationship between short-term SO₂ exposures and respiratory effects. For example, there is some limited evidence regarding the potential for an increased response to SO₂ exposures occurring in the presence of other common pollutants such as PM (potentially including particulate sulfur compounds), nitrogen dioxide and ozone, although the studies are limited (*e.g.*, with regard to their relevance to ambient exposures) and/or provide inconsistent results (ISA, pp. 5–23 to 5–26, pp. 5–143 to 5–144; 2008 ISA, section 3.1.4.7).⁶⁵

Another area of uncertainty, which remains from the last review and is important to our consideration of the REA results, concerns the extent to

which the quantitative results represent the populations at greatest risk of effects associated with exposures to SO₂ in ambient air. As recognized in section II.A.2, the evidence base of controlled human exposure studies does not include studies of children younger than 12 years old and is limited with regard to studies of people with more severe asthma.⁶⁶ The limited evidence that informs our understanding of potential risk to these groups indicates the potential for them to experience greater impacts than other population groups with asthma under similar exposure circumstances or, in the case of people with severe asthma, to have a more limited reserve for addressing this risk (ISA, section 5.2.1.2). Further, we note the lack of information on the factors contributing to increased susceptibility to SO₂-induced bronchoconstriction among some people with asthma compared to others (ISA, pp. 5–19 to 5–21). These data limitations contribute uncertainty to the exposure/risk estimates with regard to the extent to which they represent the populations at greatest risk of SO₂-related respiratory effects.

In summary, among the multiple uncertainties and limitations in data and tools that affect the quantitative estimates of exposure and risk and their interpretation in the context of considering the current standard, several are particularly important. These include uncertainties related to the following: Estimation of 5-minute concentrations in ambient air; the lack of information from controlled human exposure studies for the lower, more prevalent concentrations of SO₂ and limited information regarding multiple exposure episodes within a day; the prevalence of different exposure circumstances represented by the three study areas; and characterization of particular subgroups of people with asthma that may be at greater risk.

c. Summary of Exposure and Risk Estimates

The REA provides estimates for two simulated at-risk populations: Adults with asthma and school-aged children ⁶⁷

⁶⁵ For example, “studies of mixtures of particles and sulfur oxides indicate some enhanced effects on lung function parameters, airway responsiveness, and host defense”; however, “some of these studies lack appropriate controls and others involve [sulfur-containing species] that may not be representative of ambient exposures” (ISA, p. 5–144). These toxicological studies in laboratory animals, which were newly available in the last review, were discussed in greater detail in the 2008 ISA. That ISA stated that “[r]espiratory responses observed in these experiments were in some cases attributed to the formation of particular sulfur-containing species” yet, “the relevance of these animal toxicological studies has been called into question because concentrations of both PM (1 mg/m³ and higher) and SO₂ (1 ppm and higher) utilized in these studies are much higher than ambient levels” (2008 ISA, p. 3–30).

⁶⁶ We additionally recognize that limitations in the activity pattern information for children younger than 5 years old precluded their inclusion in the populations of children simulated in the REA (REA, section 4.1.2).

⁶⁷ The adult population group is comprised of individuals older than 18 years of age and school-aged children are individuals aged 5 to 18 years old. As in other NAAQS reviews, this REA does not estimate exposures and risk for children younger than 5 years old due to the more limited information contributing relatively greater uncertainty in modeling their activity patterns and physiological processes compared to children between the ages of 5 to 18 (REA, p. 2–8).

with asthma (REA, section 2.2). This summary focuses on the population of children with asthma given that the ISA describes children as “particularly at risk” and the REA generally yields higher exposure and risk estimates for children than adults (in terms of percentage of the population group). Summarized here are two sets of exposure and risk estimates for the 3-year simulation in each study area: (1) The number (and percent) of simulated persons experiencing exposures at or above the particular benchmark concentrations of interest while breathing at elevated rates; and (2) the number and percent of people estimated to experience at least one SO₂-related lung function decrement in a year and the number and percent of people experiencing multiple lung function decrements associated with SO₂ exposures (detailed results are presented in chapter 5 of the REA). Both types of estimates are lower for adults with asthma compared to children with asthma, generally due to the lesser amount and frequency of time spent outdoors while breathing at elevated rates (REA, section 5.2). As summarized in section II.A.3.b above, the REA provides results for two different approaches to adjusting air quality. The estimates summarized here are drawn from the results for both approaches, as presented in Tables 1 and 2 of the proposal (83 FR 26772, June 8, 2018).

This summary focuses first on the results for the benchmark-based risk metric in terms of the percent of the simulated populations of children with asthma estimated to experience at least one daily maximum 5-minute exposure per year at or above the different benchmark concentrations while breathing at elevated rates under air quality conditions just meeting the current standard (REA, Tables 6–8 and 6–9). In two of the three study areas, approximately 20% to just over 25% of a study area’s simulated children with asthma, on average across the 3-year period, are estimated to experience one or more days per year with a 5-minute exposure at or above 100 ppb while breathing at elevated rates (83 FR 26772 [Table 1], June 8, 2018).⁶⁸ With regard to the 200 ppb benchmark concentration, these two study areas’ estimates are as high as 0.7%, on average across the 3-year period, and range up to as high as 2.2% in a single

year. Less than 0.1% of either area’s simulated children with asthma were estimated to experience multiple days with such an exposure at or above 200 ppb (REA, Tables 6–8 and 6–9). Additionally, in the study area with the highest estimates for exposures at or above 200 ppb, approximately a quarter of a percent of simulated children with asthma also were estimated to experience a day with a 5-minute exposure at or above 300 ppb across the 3-year period (the percentage for the 400 ppb benchmark was 0.1% or lower). Across all three areas, no children were estimated to experience multiple days with a daily maximum 5-minute exposure (while breathing at an elevated rate) at or above 300 ppb (REA, Table 6–9).

With regard to lung function risk, in the two study areas for which the exposure estimates are highest, as many as 1.3% and 1.1%, respectively, of children with asthma, on average across the 3-year period (and as many as 1.9% in a single year), were estimated to experience at least 1 day per year with a SO₂-related doubling in sRaw (83 FR 26772 [Table 2], June 8, 2018; REA, Tables 6–10 and 6–11).⁶⁹ The corresponding percentage estimates for experiencing two or more such days ranged as high as 0.7%, on average across the 3-year simulation period (REA, Table 6–11). Additionally, as much as 0.2% and 0.3%, in Fall River and Indianapolis, respectively, of the simulated populations of children with asthma, on average across the 3-year period, was estimated to experience a single day with a SO₂-related tripling in sRaw (83 FR 26772 [Table 2], June 8, 2018).

B. Conclusions on Standard

In drawing conclusions on the adequacy of the current primary SO₂ standard, in view of the advances in scientific knowledge and additional information now available, the Administrator has considered the evidence base, information, and policy judgments that were the foundation of the last review and reflects upon the body of evidence and information newly available in this review. In so doing, the Administrator has taken into account both evidence-based and exposure- and risk-based considerations, as well as advice from the CASAC and public comments. Evidence-based considerations draw upon the EPA’s

assessment and integrated synthesis of the scientific evidence from controlled human exposure studies and epidemiologic studies evaluating health effects related to exposures of SO₂ as presented in the ISA, with a focus on policy-relevant considerations as discussed in the PA (summarized in sections II.B and II.D.1 of the proposal and section II.A.2 above). The exposure- and risk-based considerations draw from the results of the quantitative analyses presented in the REA (as summarized in section II.C of the proposal and section II.A.3 above) and consideration of these results in the PA.

Consideration of the evidence and exposure/risk information in the PA and by the Administrator is framed by consideration of a series of key policy-relevant questions. Section II.B.1 below summarizes the rationale for the Administrator’s proposed decision, drawing from section II.D.3 of the proposal. The advice and recommendations of the CASAC and public comments on the proposed decision are addressed below in sections II.B.2 and II.B.3, respectively. The Administrator’s conclusions in this review regarding the adequacy of the current primary standard and whether any revisions are appropriate are described in section II.B.4.

1. Basis for Proposed Decision

At the time of the proposal, the Administrator carefully considered the assessment of the current evidence and conclusions reached in the ISA; the currently available exposure and risk information, including associated limitations and uncertainties, described in detail in the REA and characterized in the PA; considerations and staff conclusions and associated rationales presented in the PA, including consideration of commonly accepted guidelines or criteria within the public health community, including the ATS, an organization of respiratory disease specialists; the advice and recommendations from the CASAC; and public comments that had been offered up to that point (83 FR 26778, June 8, 2018). In reaching his proposed decision on the primary SO₂ standard, the Administrator first recognized the long-standing evidence that has established the key aspects of the harmful effects of very short SO₂ exposures on people with asthma. This evidence, drawn largely from the controlled human exposure studies, demonstrates that very short exposures (for as short as a few minutes) to less than 1000 ppb SO₂, while breathing at an elevated rate (such as while exercising), induces bronchoconstriction and related

⁶⁸ These estimates for the third area (Tulsa) are much lower than those for the other two areas. No individuals of the simulated at-risk population in the third study area were estimated to experience exposures at or above 200 ppb and less than 0.5% are estimated to experience an exposure at or above the 100 ppb benchmark.

⁶⁹ As with the comparison-to-benchmark results, the estimates for risk of lung function decrements in terms of a doubling or more in sRaw are also lower in the Tulsa study area than the other two areas (83 FR 26772 [Table 2], June 8, 2018; REA, Tables 6–10 and 6–11).

respiratory effects in people with asthma and provides support for identification of this group as the population at risk from short-term peak concentrations in ambient air (ISA; 2008 ISA; U.S. EPA, 1994).⁷⁰ Within this evidence base, there is a relative lack of such information for some subgroups of this population, including young children and people with severe asthma. The evidence base additionally includes epidemiologic evidence that supports the conclusion of a causal relationship between short-term SO₂ exposures and respiratory effects, for which the controlled human exposure studies are the primary evidence.

With regard to the health effects evidence newly available in this review, in the proposal the Administrator noted that, while the health effects evidence, as assessed in the ISA, has been augmented with additional studies since the time of the last review, including more than 200 new health studies, it does not lead to different conclusions regarding the primary health effects of SO₂ in ambient air or regarding exposure concentrations associated with those effects. Nor does it identify different or additional populations at risk of SO₂-related effects. Thus, the Administrator recognized that the health effects evidence available in this review and addressed in the ISA is consistent with evidence available in the last review when the current standard was established and that this strong evidence base continues to demonstrate a causal relationship between relevant short-term exposures to SO₂ and respiratory effects, particularly with regard to effects related to asthma exacerbation in people with asthma. He also recognized that the ISA conclusion on the respiratory effects caused by short-term exposures is based primarily on the evidence from controlled human exposure studies that reported effects in people with asthma exposed to SO₂ for 5 to 10 minutes while breathing at an elevated rate (ISA, section 5.2.1.9), and that the current 1-hour standard was established to provide protection from effects such as these (75 FR 35520, June 22, 2010; 83 FR 26778, June 8, 2018).

In considering exposure concentrations of interest in this review, the Administrator particularly noted the evidence from controlled human exposure studies, also available in the last review, that demonstrate the occurrence of moderate or greater lung

function decrements in some people with asthma exposed to SO₂ concentrations as low as 200 ppb for very short periods of time while breathing at elevated rates (ISA, Table 5–2⁷¹ and Figure 5–1, summarized in Table 3–1 of the PA).⁷² He recognized that the data for the 200 ppb exposures include limited evidence of respiratory symptoms accompanying the lung function effects observed, and that the severity and number of individuals affected is found to increase with increasing exposure levels, as is the frequency of accompaniment by respiratory symptoms, such that, at concentrations at or above 400 ppb, the moderate or greater decrements in lung function were frequently accompanied by respiratory symptoms, with some of these findings reaching statistical significance at the study group level (ISA, Table 5–2 and section 5.2.1; PA, section 3.2.1.3; 83 FR 26779, June 8, 2018).

In considering the potential public health significance of these effects associated with SO₂ exposures, the Administrator's proposed decision recognized both the greater significance of larger lung function decrements, which are more frequently documented at exposures above 200 ppb, and the potential for greater impacts of SO₂-induced decrements in people with more severe asthma, as recognized in the ISA and by the CASAC (as summarized in section II.D.2 of the proposal).⁷³ Thus, the Administrator recognized that health effects resulting from exposures at and above 400 ppb are appreciably more severe than those elicited by exposure to SO₂ concentrations at 200 ppb, and that health impacts of short-term SO₂ exposures (including those occurring at concentrations below 400 ppb) have the potential to be more significant in the subgroup of people with asthma that have more severe disease and for which

the study data are more limited (83 FR 26779, June 8, 2018).

As was the case for the 2010 decision, the Administrator's proposed decision in this review recognized the importance of considering the health effects evidence in the context of the exposure and risk modeling performed for this review. The Administrator recognized that such a context is critical for SO₂, a chemical for which the associated health effects that occur in people with asthma are linked to exposures during periods of elevated breathing rates, such as while exercising. Accordingly, in considering the adequacy of public health protection provided by the current standard, the Administrator considered the evidence in this context. In so doing, he found the PA considerations regarding the REA results and the associated uncertainties, as well as the nature and magnitude of the uncertainties inherent in the scientific evidence upon which the REA is based, to be important to judgments such as the extent to which the exposure and risk estimates for air quality conditions that just meet the current standard in the three study areas indicate exposures and risks that are important from a public health perspective.

Thus, in considering whether the current standard provides the requisite protection of public health in the proposal, the Administrator took note of: (1) The PA consideration of a sizeable number of at-risk individuals living in locations near large SO₂ emissions sources that may contribute to increased concentrations in ambient air, and associated exposures and risk; (2) the REA estimates of children with asthma estimated to experience single or multiple days across the 3-year assessment period, as well as in a single year, with a 5-minute exposure at or above 200 ppb, while breathing at elevated rates; and (3) limitations and associated uncertainties with regard to population groups at potentially greater risk but for which the evidence is lacking, recognizing that the CAA requirement that primary standards provide an adequate margin of safety is intended to address uncertainties associated with inconclusive scientific and technical information, as well as to provide a reasonable degree of protection against hazards that research has not yet identified (83 FR 26780, June 8, 2018). Further, the proposed decision recognized advice received from the CASAC, including its conclusion that the current evidence and exposure/risk information supports retaining the current standard, as well as its statement that it did not

⁷⁰ For people without asthma, such effects have only been observed in studies of exposure concentrations at or above 1000 ppb (ISA, section 5.2.1.7).

⁷¹ The availability of individual subject data from these studies allowed for the comparison of results in a consistent manner across studies (ISA, Table 5–2; Long and Brown, 2018).

⁷² The Administrator additionally considered the very limited evidence for exposure concentrations below 200 ppb, for which relatively less severe effects are indicated, while noting the limitations of this dataset (83 FR 26781, June 8, 2018).

⁷³ The ISA notes that while extremely limited evidence for adults with moderate to severe asthma indicates such groups may have similar relative lung function decrements in response to SO₂ as adults with less severe asthma, individuals with severe asthma may have greater absolute decrements that may relate to the role of exercise (ISA, pp. 1–17 and 5–22). The ISA concluded that individuals with severe asthma may have “less reserve capacity to deal with an insult compared with individuals with mild asthma” (ISA, pp. 1–17 and 5–22).

recommend reconsideration of the level of the standard to provide a greater margin of safety (83 FR 26780, June 8, 2018). Based on all of these considerations, the Administrator proposed to conclude that a less stringent standard would not provide the requisite protection of public health, including an adequate margin of safety (83 FR 26780, June 8, 2018).

The Administrator also considered the adequacy of protection provided by the current standard from effects associated with lower short-term exposures, including those at or below 200 ppb. In so doing, he considered the REA estimates for such effects, and the significance of estimates for single (*versus* multiple) occurrences of exposures at or above the lower benchmark concentrations and associated lung function decrements, and the nature and magnitude of the various uncertainties that are inherent in the underlying scientific evidence and REA analyses. Based on these, he placed little weight on the significance of estimates of occurrences of short-term exposures below 200 ppb and focused on the REA results for exposures at and above 200 ppb in light of his considerations, noted above, regarding the health significance of findings from the controlled human exposure studies. He further placed relatively less weight on the significance of infrequent or rare occurrences of exposures at or just above 200 ppb, and more weight on the significance of repeated such occurrences, as well as occurrences of higher exposures. With this weighing of the REA estimates and recognizing the uncertainties associated with such estimates for the scenarios of air quality developed to represent conditions just meeting the current standard, the Administrator considered the current standard to provide a high degree of protection to at-risk populations from SO₂ exposures associated with the more severe health effects, which are more clearly of public health concern, as indicated by the extremely low estimates of occurrences of exposures at or above 400 ppb (and at or above 300 ppb); and to additionally provide a slightly lower, but still high, degree of protection for the appreciably less severe effects associated with lower exposures (*i.e.*, at and below 200 ppb), for which public health implications are less clear. The Administrator further observed that although the CASAC stated that there is uncertainty in the adequacy of the margin of safety provided by the current standard for less well studied yet potentially susceptible population groups, it

concluded that “the CASAC does not recommend reconsideration of the level in order to provide a greater margin of safety” (Cox and Diez Roux, 2018b, Consensus Responses, p. 5; 83 FR 26780, June 8, 2018). Based on these and all of the above considerations, the Administrator proposed to conclude that a more stringent standard is not needed to provide requisite protection and that the current standard provides the requisite protection of public health under the Act (83 FR 26781, June 8, 2018).

In summary, the Administrator considered the specific elements of the existing standard and proposed to retain the existing standard, in all of its elements. With regard to SO₂ as the indicator, he recognized the support for retaining this indicator in the current evidence base, noting the ISA conclusion that SO₂ is the most abundant of the SO_x in the atmosphere and the one most clearly linked to human health effects. The Administrator additionally recognized the control exerted by the 1-hour averaging time on 5-minute ambient air concentrations of SO₂ and the associated exposures of particular importance for SO₂-related health effects. Lastly, with regard to form and level of the standard, the Administrator noted the REA results and the level of protection that they indicate the elements of the current standard to collectively provide. The Administrator additionally noted CASAC support for retaining the current standard and the CASAC’s specific recommendation that all four elements should remain the same.

Thus, based on consideration of the evidence and exposure/risk information available in this review, with its attendant uncertainties and limitations, and information that might inform public health policy judgments, as well as consideration of advice from the CASAC, including their concurrence with the PA conclusions that the current evidence does not support revision of the primary SO₂ standard, the Administrator proposed to conclude that it is appropriate to retain the current standard without revision based on his judgment that the current primary SO₂ standard provides an adequate margin of safety against adverse effects associated with short-term exposures to SO_x in ambient air. For these reasons, and all of the reasons discussed above, and recognizing the CASAC conclusion that the current evidence and REA results provide support for retaining the current standard, the Administrator proposed to conclude that the current primary SO₂

standard is requisite to protect public health with an adequate margin of safety from effects of SO_x in ambient air and should be retained, without revision.

2. CASAC Advice in This Review

In comments on the draft PA, the CASAC concurred with staff’s overall preliminary conclusions that “the current scientific literature does not support revision of the primary NAAQS for SO₂,” additionally stating the following (Cox and Diez Roux, 2018b, p. 3 of letter):

The CASAC notes that the new scientific information in the current review does not lead to different conclusions from the previous review. Thus, based on review of the current state of the science, the CASAC supports retaining the current standard, and specifically notes that all four elements (indicator, averaging time, form, and level) should remain the same.

The CASAC further stated the following (Cox and Diez Roux, 2018b, p. 3 of letter):

With regard to indicator, SO₂ is the most abundant of the gaseous SO_x species. Because, as the PA states, “the available scientific information regarding health effects was overwhelmingly indexed by SO₂,” it is the most appropriate indicator. The CASAC affirms that the one-hour averaging time will protect against high 5-minute exposures and reduce the number of instances where the 5-minute concentration poses risks to susceptible individuals. The CASAC concurs that the 99th percentile form is preferable to a 98th percentile form to limit the upper end of the distribution of 5-minute concentrations. Furthermore, the CASAC concurs that a three-year averaging time for the form is appropriate.

The choice of level is driven by scientific evidence from the controlled human exposure studies used in the previous NAAQS review, which show a causal effect of SO₂ exposure on asthma exacerbations. Specifically, controlled five-minute average exposures as low as 200 ppb lead to adverse health effects. Although there is no definitive experimental evidence below 200 ppb, the monotonic dose-response suggests that susceptible individuals could be affected below 200 ppb. Furthermore, short-term epidemiology studies provide supporting evidence even though these studies cannot rule out the effects of co-exposures and are limited by the available monitoring sites, which do not adequately capture population exposures to SO₂. Thus, the CASAC concludes that the 75 ppb average level, based on the three-year average of 99th percentile daily maximum one-hour concentrations, is protective and that levels above 75 ppb do not provide the same level of protection.

The comments from the CASAC also took note of the uncertainties that remain in this review. In so doing, it stated that the “CASAC notes that there are many susceptible subpopulations

that have not been studied and which could plausibly be more affected by SO₂ exposures than adults with mild to moderate asthma,” providing as examples people with severe asthma and obese children with asthma, and citing physiologic and clinical understanding (Cox and Diez Roux, 2018b, p. 3 of letter). The CASAC stated that “[i]t is plausible that the current 75 ppb level does not provide an adequate margin of safety in these groups[, h]owever because there is considerable uncertainty in quantifying the sizes of these higher risk subpopulations and the effect of SO₂ on them, the CASAC does not recommend reconsideration of the level at this time” (Cox and Diez Roux, 2018b, p. 3 of letter).

The CASAC additionally noted that the draft PA “clearly identifies most of the key uncertainties, including uncertainties in dose-response” and that “[t]here are also some additional uncertainties that should be mentioned” (Cox and Diez Roux, 2018b, pp. 6–7 of Consensus Response to Charge Questions). These are in a variety of areas including risk for various population groups, personal exposures to SO₂, and estimating short-term ambient air concentrations.⁷⁴ The CASAC additionally recommended attention to assessment of the impact of relatively lower levels of SO₂ in persons who may be at increased risk, including those referenced above (Cox and Diez Roux, 2018b, p. 3 of letter). The CASAC suggested research and data gathering in these and other areas that would inform the next primary SO₂ standard review (Cox and Diez Roux, 2018b, p. 6 of Consensus Responses to Charge Questions).

3. Comments on the Proposed Decision

During the public comment period for the proposed decision, we received 24 comments.

a. Comments in Support of Proposed Decision

Of the comments addressing the proposed decision, the majority supported the Administrator’s proposed decision to retain the current primary standard, without revision. This group includes an association of state and local air agencies, all of the state agencies that submitted comments, more than half of the industry organizations that submitted comments, and a couple of comments from individuals. All of these commenters generally note their agreement with the

rationale provided in the proposal and the CASAC concurrence with the PA conclusion that the current evidence does not support revision to the standard. Most also cite the EPA and CASAC statements that information newly available in this review has not substantially altered our previous understanding of effects from exposures lower than what was previously examined or of the at-risk populations and does not call into question the adequacy of the current standard. They all find the proposed decision to retain the current standard to be well supported. The EPA agrees with these comments and with the CASAC advice regarding the adequacy of the current primary standard and the lack of support for revision of the standard.

We additionally note that some of the industry commenters that stated their support for retaining the current standard without revision additionally stated that in their view the current standard provides more public health protection than the EPA has recognized in the proposal. As support for this view, these comments variously state that concentrations in most of the U.S. are well below those evaluated in the REA; that the studies in the ISA do not demonstrate statistically significant response to SO₂ concentrations below 300 ppb; and, that a large percentage of the REA estimates of lung function risk is attributable to exposures below 200 ppb. The commenters also claim that in the 2010 decision that established the current standard (75 FR 33547, June 22, 2010), the EPA had determined that a standard protecting about 97–98% of exposed children with asthma from a doubling of sRaw would be appropriate, but that the estimates in the current REA indicate that over 99% of exercising children with asthma receive such protection from the current NAAQS.

As an initial matter, while we agree with the commenters that most of the U.S. has SO₂ concentrations below those assessed in the REA, we disagree that this indicates the standard is overly protective. Rather, this simply indicates the lack of large SO₂ emissions sources in many parts of the country (although their presence in other parts of the country contributes to ambient air concentrations of SO₂ similar to or higher than those in the REA). As recognized in section II.A.3 above, the REA is designed to inform our understanding of exposure and risk in areas of the U.S. where SO₂ emissions contribute to airborne concentrations such that the current standard is just met because the REA is intended to inform the Agency’s decision regarding

the public health protection provided by the current standard, rather than to describe exposure and risk in areas with SO₂ concentrations well below the current standard (e.g., such that they that would meet alternative more restrictive standards). This approach is consistent with section 109 of the CAA, which requires the EPA to review whether the current primary standard—not current air quality—is requisite to protect public health with an adequate margin of safety (CAA section 109(b)(1) and 109(d)(1); see also *NEDA/CAP*, 686 F.3d at 813 [rejecting the notion that it would be inappropriate for the EPA to revise a NAAQS if current air quality does not warrant revision, stating “[n]othing in the CAA requires EPA to give the current air quality such a controlling role in setting NAAQS”]). Thus, the EPA disagrees with the commenters that the public health protection provided by the standard is indicated by exposure and risk associated with air quality in parts of the U.S. with concentrations well below the standard, and finds the REA appropriately designed for purposes of informing consideration of the adequacy of the public health protection provided by the current standard.

With regard to the characterization of risk in the REA, it is true as the commenters state that the lung function risk estimates include estimates of risk based on 5-minute exposures below 200 ppb and that the evidence from controlled human exposure studies is very limited for concentrations below 200 ppb. We recognize this as an uncertainty in the estimates (e.g., PA, section 3.2.2.3).⁷⁵ In considering the uncertainties in and any associated implications of these estimates, we also recognize, however, that we lack information for some population groups, including young children with asthma and individuals with severe asthma who might exhibit responses at lower exposures than those already studied. And, as is noted in section II.A.2 above and by the CASAC in their advice (summarized in section II.B.2 above), there is the potential for responses in these populations to exposure concentrations lower than those that have been tested in the controlled human exposure studies. Thus, while we recognize the uncertainty in the estimates noted by the commenters, we have considered the methodology (which derived risk estimates based on

⁷⁴ These and other comments from the CASAC on the draft PA and REA were considered in preparing the final PA and REA, as well as in developing the proposed and final decisions in this review.

⁷⁵ For example, the PA recognizes the uncertainty in the lung function risk estimates increases substantially with decreasing exposure concentrations below those examined in the controlled human exposure studies (PA, section 3.2.2.3; REA, Table 6–3).

the lower exposure concentrations) to be appropriate in light of the potential for the estimates to inform our consideration of the protection afforded to these unstudied populations. Further, in considering the risk estimates with regard to the level of protection provided to at-risk populations in reaching a conclusion about the adequacy of the current standard, the Administrator has recognized them to be associated with somewhat greater uncertainty than the comparison-to-benchmark estimates (see section II.B.4 below).

Lastly, we do not agree with the comment that the estimates of children protected from exposures of concern by the now-current standard were appreciably lower when the standard was established. While there are a number of differences between the 2009 REA and the quantitative modeling and analyses performed in the current REA (as described in PA, section 3.2.2 and summarized in section II.A.3 above), the percentage of children with asthma that are estimated in the current REA to experience at least a doubling in sRaw ranges up to 98.7% as a 3-year average across the three study areas.⁷⁶ Although the REA in the last review did not estimate risk for a 1-hour standard with a level of 75 ppb, the estimate from the current REA falls squarely between the 2009 REA estimates for the two air quality scenarios most similar to a scenario just meeting the current standard: 99.5% for a level of 50 ppb and 97.1% for a level of 100 ppb (PA, section 3.2.2.2; 74 FR 64841, Table 4, December 8, 2009). In making their comment, the commenters claim that the 2010 decision conveyed that the selected standard of 75 ppb would protect 97 to 98 percent of exposed children from a doubling of sRaw. Given the lack of 2009 REA estimates for the level of 75 ppb, it might be presumed that the commenter's two percentages represent the results for the 50 ppb and 100 ppb scenarios, thus providing a range within which results for 75 ppb might be expected to fall. However, that is not the case; rather, the percentages cited by the commenter (97–98%) pertain to the 2009 REA sRaw risk estimates for the air quality scenario with a standard level of 100 ppb (75 FR

35547, June 22, 2010; 74 FR 64841 and Table 4, December 8, 2009). Thus, the comment's statement is not borne out by the risk estimates relevant to the current standard. Further, while we recognize distinctions between the methodology and scenarios for the two REAs, we find the estimates for lung function risk based on sRaw and the similar estimates for exposures at or above the 200 ppb benchmark to be of a magnitude roughly consistent between the two REAs (as summarized in PA, section 3.2.2.2 and 3.1.1.2.4). Accordingly, while we agree there are uncertainties in the evidence and in the exposure and risk estimates, the currently available information indicates a level of protection to be afforded by the current standard that is generally similar to what was indicated by the evidence available when the standard was set in 2010. For these reasons, we disagree that the current standard provides more public health protection than recognized in the proposal.

b. Comments in Disagreement With Proposed Decision

Of the commenters that disagreed with the proposal to retain the current standard, three recommend a tightening of the standard, while five recommend a less stringent standard. The commenters that recommended a tighter standard state their support for revisions to provide greater public health protection, generally claiming that the current standard is inadequate and does not provide an adequate margin of safety for potentially vulnerable groups. Commenters supporting a less stringent standard assert that the current standard is overprotective, with some of these commenters stating that the EPA is inappropriately concerned about respiratory effects from exposures as low as 200 ppb. We address these comments in turn below.

(i) Comments in Disagreement With Proposed Decision and Calling for More Stringent Standard

The commenters advocating for a more stringent standard variously recommend that the level of the existing standard be revised to a value no higher than 50 ppb, the form should be revised to allow the occurrence of fewer hours with average concentrations above 75 ppb, and/or that a new 24-hour standard be established. These three points are addressed below.

With regard to a standard level of 50 ppb, two of the commenters supporting this view note that they also expressed this view in comments they submitted during the 2010 review. In the comment in the current review, these commenters

cite asthma prevalence estimates for children and other population groups, noting that asthma attacks may contribute to missed school days, potentially affecting children's education. These commenters additionally suggest that the current standard does not adequately protect all population groups or provide an adequate margin of safety given uncertainties in the health effects evidence base, including those associated with the lack of controlled human exposure studies that have investigated effects in particular at-risk populations, such as young children with asthma, or at concentrations below 100 ppb, as well as their view that available studies did not address multiple exposures in the same day.

One of the commenters quoted from the comment they submitted in the last review which supported revisions to the then-current standards (different from the revisions in the 2009 proposal).⁷⁷ The quoted text stated that epidemiologic studies (available in the decade prior to the 2010 decision) include associations of health outcomes with 24-hour SO₂ concentrations that are below the level of the then-current 24-hour standard (140 ppb) and that these studies indicate SO₂ effects at concentrations below the then-current standards. The commenter then expressed the view that the science accumulated in the intervening years has strengthened and reaffirmed this. As the 2010 decision concluded that the then-existing 24-hour standard did not provide adequate public health protection from short-term SO₂ concentrations (and consequently established a new standard expressly for that purpose), we find that the commenter's statements regarding the then-current 24-hour standard do not pertain to the issue at hand in the current review, *i.e.*, the adequacy of protection provided by the current 1-hour standard. Moreover, assessments in the last review supported the Administrator's conclusion at that time that the then-existing 24-hour standard

⁷⁷ As part of the comments they submitted in the current review, this commenter incorporated by reference their comments on the 2009 proposal. Given the different framing of the current proposal (to retain the now-existing 1-hour standard) from the proposal in the last review (to significantly revise the then-existing standards including the establishment of a new 1-hour standard) and that this review relies on the current record, which differs in a number of ways from that in the last review (*e.g.*, the updated analyses in the REA), we do not believe that merely incorporating 2009 comments by reference is sufficient to raise a significant comment with reasonable specificity in this review, without further description of why the issues presented in the prior comment are still relevant to the proposal in the current review.

⁷⁶ We note that in claiming that the current REA indicates "over 99%" of exercising asthmatic children to be protected from a doubling of sRaw, the commenter erroneously cites the percentage for multiple occurrences of a doubling of sRaw (83 FR 26781/3, June 8, 2018). In multiple other locations in the proposal, the percentage for one or more occurrences is given as up to 98.7% across the three study areas as a 3-year average (83 FR 26772, Table 2 and text, 26775/2, 26777/1, 26779/3, June 8, 2018).

did not provide adequate protection from the short-term concentrations of most concern. As a result, the decision in the last review was to provide for revocation of the 24-hour standard and to establish the now current 1-hour standard to provide the needed protection of at-risk populations with asthma from respiratory effects of SO₂ (75 FR 35550, June 22, 2010). To the extent that these comments on the proposal in the current review are intended to imply that the epidemiologic studies briefly mentioned in the quotation from the comment in the last review or studies that have become available in the intervening years indicate that the current standard is inadequate, the comments do not provide any explanation or analysis to support such an assertion. With regard to the current standard and the epidemiologic evidence, we further note that such evidence was considered by the Administrator in 2010 (as were the comments submitted at that time) in the setting of the now-current standard, and that the EPA has again considered the complete body of evidence in this review and found no newly available studies that might support alternative conclusions (75 FR 35548, June 22, 2010; 83 FR 26765, June 8, 2018). While the pattern of associations across the newly available epidemiologic studies is consistent with the studies available in the last review, key uncertainties remain, including the potential for confounding by PM or other copollutants (as summarized in section II.A.2 above). Among the U.S. epidemiologic studies reporting mostly positive and sometimes statistically significant associations between ambient SO₂ concentrations and emergency department visits or hospital admissions (some conducted in multiple locations), few studies have attempted to address this uncertainty, *e.g.*, through the use of copollutant models (83 FR 26765, June 8, 2018; ISA, section 5.2.1.2). In the last review, there were three U.S. studies for which the SO₂ effect estimate remained positive and statistically significant in copollutant models with PM.⁷⁸ As noted in the proposal, no additional such studies have been newly identified in this review (83 FR 26765, June 8, 2018). The conclusions of these studies and the air quality of the study areas were given consideration by the Administrator in 2010 in setting the current standard (83

FR 26761, June 8, 2018), and they do not call into question the adequacy of the current standard in this review.

Another comment in support of revising the standard level to 50 ppb cites information on the impact of asthma and asthma attacks on children and other population groups as a basis for their view that many people are being harmed under the current standard with its level of 75 ppb. While this comment described some of the health effects of SO₂ exposures for people with asthma and opined that SO₂-induced asthma attacks interfere with children's health, school attendance and education, the commenter did not provide evidence that such effects were allowed by and occurring under the current standard. While we agree with the commenter regarding the important impact of asthma on public health in the U.S., including impacts on the health of children and population groups for which asthma prevalence may be higher than the national average, and we agree that people with asthma, and particularly children with asthma, are at greatest risk of SO₂-related effects, we do not find the information currently available in this review to provide evidence of SO₂-induced asthma attacks or other harm to public health in areas of the U.S. that meet the current standard.⁷⁹ Thus, we disagree with the comment that the current standard fails to address the need to provide protection from asthma-related effects of SO_x in ambient air.

Commenters in support of a lower level for the standard additionally express concern that populations living in communities near large sources of SO₂ emissions, including children in population groups with relatively higher asthma prevalence, may not be adequately protected by the current standard. In considering this comment, we note that while the REA did not categorize simulated children with asthma with regard to specific demographic subgroups, such as those mentioned by the commenter or

discussed in section II.A.2.d above, the estimates are for children with asthma in areas with large sources of SO₂ emissions and with air quality just meeting the current standard. As noted in section II.A.3 above, the asthma prevalence across census tracts in the three REA study areas ranged from 8.0 to 8.7% for all ages (REA, section 5.1) and from 9.7 to 11.2% for children (REA, section 5.1), which reflects some of the higher prevalence rates in the U.S. today (PA, sections 3.2.1.5 and 3.2.2.1). Thus, in considering these results to inform his decision regarding the adequacy of protection provided by the current standard, the Administrator is focused on the patterns of exposure and populations with elevated rates of asthma stated to be the situation of concern to these commenters.

In two of the three REA study areas, each of which include large emissions sources and air quality adjusted to just meet the current standard, no children with asthma were estimated to experience a day with an exposure while breathing at elevated rates to a 5-minute SO₂ concentration at or above 400 ppb, the concentration at which moderate or greater lung function decrements have been documented in 20–60% of study subjects, with decrements frequently accompanied by respiratory symptoms. In the third area the estimate was less than 0.1%, on average across the 3-year period. Further, fewer than 1% of children with asthma, on average across the 3-year assessment period, were estimated to experience any days with exposures at or above 200 ppb in two of the areas, and no children were estimated to experience such days in the third area (PA, Table 3–3; 83 FR 26775, June 8, 2018). Thus, the REA exposure and risk estimates for the current review indicate that the current standard is likely to provide a very high level of protection from SO₂-related effects documented at higher concentrations and a high level of protection from the transient lung-function decrements documented in individuals with asthma in controlled human exposure study concentrations as low as 200 ppb.

The comment claiming that the current standard does not provide an adequate margin of safety emphasized limitations in the evidence base of controlled human exposure studies, noting the very limited available studies that examined 5-minute SO₂ exposures as low as 100 ppb; the lack of studies in young children with asthma and people of any age with severe asthma; and that the studies did not examine the impact of multiple exposures in the same day. While we agree that the

⁷⁸ Based on data available for specific time periods at some monitors in the areas of these studies, the 99th percentile 1-hour daily maximum concentrations were estimated in the last review to be between 78–150 ppb (83 FR 26765, June 8, 2018).

⁷⁹ An overview of the evidence available in this review, and the ISA and PA conclusions regarding it, is provided in section II.A.2 above and summarized in the proposal. These conclusions did not find the currently available evidence to indicate that air quality conditions allowed by the current standard allow SO₂-induced asthma attacks that interfere with children's health, school attendance and education. The CASAC has concurred with the ISA conclusions regarding the evidence, which also support the overarching conclusion in the PA that the currently available evidence and exposure/risk information does not call into question the adequacy of public health protection provided by the current standard, a conclusion with which the CASAC also concurred, as summarized in section II.B.2 above.

evidence base is limited with regard to examination of potential effects at lower concentrations and in some population groups, we disagree with the latter statement that the currently available studies have not investigated multiple exposures within the same day. In fact, there are some studies that inform our understanding of responses to repeated occurrences of exposure during exercise within the same day (REA, Table 6–3; ISA, section 5.2.1.2). For example, there are studies that have investigated the magnitude of lung function response from separate exercise events within the same 1-hour or 6-hour exposure, and from exposures with exercise occurring on subsequent days (Linn et al., 1984; Kehrl et al., 1987). As an initial matter, we note that the evidence shows lung function decrements that occur with short SO₂ exposures are resolved with the cessation of either the exposure or exercise, with lung function returning to baseline in either situation (ISA, section 5.2.1.2). Further, responses to repeated exercise events occurring within the same 1-hour or 6-hour exposure are diminished in comparison to the response to the initial event (Kehrl et al., 1987; Linn et al., 1984; Linn et al., 1987). Even responses to exposures while exercising that are separated by a day are still very slightly diminished from the initial response (Linn et al., 1984). Thus, we disagree with the commenter's statement that the available controlled human exposure studies have not examined the impact of multiple exposures in the same day. While the studies involve single continuous exposure periods shorter than a day, the discontinuous nature of the exercise component of the exposure design provides the relevant circumstances for assessing the impact of multiple exposure-with-exercise events in a single day. The evidence from these studies documents the transient nature of the lung function response, even to the high concentrations studied (600 to 1000 ppb), as well as a lessening of decrements in response to subsequent occurrences within a day.

We agree with this comment that the evidence base is limited with regard to examination of potential effects at lower concentrations and in some population groups. As summarized in I.A.2 above, the health effects evidence newly available in this review does not extend our understanding of the range of exposure concentrations that elicit effects in people with asthma exposed while breathing at an elevated rate beyond what was understood in the last review. As in the last review, 200 ppb

remains the lowest concentration tested in controlled human exposure studies where study subjects are freely breathing in exposure chambers. The limited information available for exposure concentrations below 200 ppb, including exposure concentrations of 100 ppb, while not amenable to direct quantitative comparisons with information from studies at higher concentrations, generally indicates a lesser response. Further, as discussed in section II.A.2 above, we recognize that evidence for some at-risk population groups, including young children with asthma and individuals with severe asthma, is limited or lacking at any exposure concentration. As discussed in section II.B.4 below, the Administrator has explicitly recognized this in reaching conclusions regarding the adequacy of the public health protection provided by the current standard, including considerations of margin of safety for the health of at-risk populations.

One commenter advocating a more stringent standard additionally notes that evidence from controlled human exposure studies is also lacking for adults older than 75 years, an age group for which the commenter states there is new research placing this age group at increased risk. While some recent epidemiologic studies have examined associations of SO₂ with the occurrence of various health outcomes in older adults (typically ages 65 years and older), such studies have not consistently found stronger associations for this group compared to younger adults (ISA, sections 6.5.1.2 and 6.6). As a result, the ISA concluded that the evidence was only suggestive of the older age group being at increased risk of SO₂-related health effects. Such a characterization indicates that “the evidence is limited due to some inconsistency within a discipline or, where applicable, a lack of coherence across disciplines” (ISA, Table 6–1), and in this case, the ISA indicates that the study results were concluded to be “mixed” or “generally inconsistent” (ISA, Table 6–7). Further, there is no evidence indicating that the individuals in this group would be affected at lower exposure concentrations than other population groups or that they would be inadequately protected by the current standard. As noted by the CASAC more broadly, “there are many susceptible subpopulations that have not been studied and which could plausibly be more affected by SO₂ exposures than adults with mild to moderate asthma” (Cox and Diez Roux, 2018b, p. 3 of letter).

With that recognition in mind, the CASAC explicitly considered the issue of margin of safety provided by the current standard. While noting that “[i]t is plausible that the current 75 ppb level does not provide an adequate margin of safety in these groups,” the CASAC additionally stated that “because there is considerable uncertainty in quantifying the sizes of these higher risk subpopulations and the effect of SO₂ on them, the CASAC does not recommend reconsideration of the level at this time” (Cox and Diez Roux, 2018b, p. 3 of letter). The CASAC additionally concluded that the 75 ppb level of the standard “is protective” and that the current scientific evidence “does not support revision of the primary NAAQS for SO₂” (Cox and Diez Roux, 2018b, pp. 1 and 3 of letter). In addition, we note that the D.C. Circuit has concluded that the selection of any particular approach for providing an adequate margin of safety is a policy choice left specifically to the Administrator's judgment (*Lead Industries Association v. EPA*, 647 F.2d at 1161–62; *Mississippi*, 744 F.3d at 1353). In light of such considerations, as discussed in section II.B.4 below, the Administrator does not agree with commenters that the current standard fails to include an adequate margin of safety or otherwise insufficiently protects older adults or other population groups, including those that are recognized as being most at risk of SO₂-related effects in this review, *i.e.*, people with asthma, in particular children with asthma.

As additional support for their view that the standard level should be revised to 50 ppb, one of the commenters states that any new standard would have to be more protective to make up for the lack of progress on implementation of the 2010 standard. Such a rationale lacks a basis in the CAA. The requirements in sections 108 and 109 of the CAA for establishing and reviewing the NAAQS are separate and distinct from the CAA requirements for implementing the NAAQS (*e.g.*, CAA sections 107, 110, and 172), and the time it takes to attain a standard under those requirements is not evidence pertaining to the adequacy of that standard with regard to public health protection under section 109. In setting primary and secondary standards that are “requisite” to protect public health and public welfare, respectively, as provided in section 109(b), the EPA's task is to establish standards that are neither more nor less stringent than necessary for these purposes.⁸⁰

⁸⁰ In so doing, the EPA may not consider the costs of implementing the standards. See generally,

Moreover, section 109(d)(1), the statutory provision that governs the review and revision of the NAAQS, provides that the Administrator shall periodically review the NAAQS and the air quality criteria and “shall make such revisions . . . as may be appropriate in accordance” with sections 108 and 109(b), but does not mention any of the sections of the Act related to NAAQS implementation as relevant to that review. In addition, the Act contains specific provisions addressing the timing of NAAQS implementation, such as promulgating area designations under section 107(d) and adoption of state implementation plans for NAAQS implementation and enforcement under sections 110(a)(1) and 172(c), and these provisions establish their own requirements for timing and substantive decisions that are, likewise, not governed by the deadlines and criteria that govern the EPA’s review under section 109. Each of these sections—109, 107, 110 and 172—govern EPA action independently of each other, and the EPA’s performance of its duties under each provision is independently and fully reviewable without regard to the timeliness of its actions under the other provisions. Thus, there is no reason to think that Congress intended to require the Agency to address issues of the timing of NAAQS implementation through the NAAQS review process, including in the consideration of whether a specific standard provides the requisite protection.

One of the comments submitted in support of a lower standard level also recommended that the form of the standard be revised to one that would allow fewer daily maximum 1-hour concentrations above 75 ppb. This commenter stated that if the level of the current standard is retained, a more restrictive form of the standard should be adopted. In support of this position, this commenter stated that the current 99th percentile form allows for “multiple days a year of dangerous levels of SO₂.” The commenter does not provide a basis for their characterization of any 1-hour SO₂ concentration above 75 ppb as dangerous and does not explain their view of what “dangerous” encompasses with respect to potential exposures and health risk, estimates of which are provided by the REA for air quality scenarios that just meet the current standard and would allow no more than 4 days per year (on average

across a 3-year period) with 1-hour concentrations above 75 ppb. We do not consider the exposures allowed by the current standard and characterized in the REA to be dangerous to public health. Thus, we disagree with the commenter’s view that the small number of days that may have 1-hour concentrations above 75 ppb under conditions meeting the current standard create “dangerous” circumstances. The evidence base of controlled human exposure studies, which provides the most detailed information about human health effects resulting from exposure to SO₂, does not include exposure concentrations below 100 ppb. While the data are limited at that concentration, they indicate a lesser response than that at the 200 ppb level. The results for exposures at 200 ppb indicate that, which includes less than 10% of study subjects with asthma, exposed while exercising, experiencing a moderate or greater lung function decrement, with the response ceasing with cessation of exposure or exertion. Nor do we agree that a more restrictive form of the standard is necessary to protect at-risk populations from adverse effects associated with short (*e.g.*, 5-minute) peak SO₂ exposures which was an explicit consideration in the establishment of the current standard (75 FR 35539, June 22, 2010). Section II.A.2 above summarizes the current health effects evidence regarding concentrations associated with effects of such exposures and the severity of such effects. As noted there, the current evidence is consistent with that available in the last review when the standard was set. Further, as recognized in sections II.A.1 and II.B.1 above, the protection afforded by the current standard stems from its elements collectively, including the level of 75 ppb, in combination with the averaging time of one hour and the form of the 3-year average of annual 99th percentile daily maximum concentrations. The REA analyses of exposure and risk for air quality conditions just meeting the current standard (in all its elements) indicate a high level of protection of children with asthma from days with an exposure, while exercising, to peak concentrations as low as 200 ppb, the lowest concentration at which moderate or greater lung function decrements have been documented, and a very high level of protection against 400 ppb exposures.⁸¹ We additionally note that

analyses of air quality at the 308 monitors across the U.S. at which the current standard was met during the recent 3-year period analyzed in the PA (2014–2016), indicate that peak SO₂ concentrations in ambient air at or above 200 ppb are quite rare (PA, Figure C–5). Lastly, we note that in explicitly considering the elements of the standard the CASAC advised that “all four elements (indicator, averaging time, form, and level) should remain the same” (Cox and Diez Roux, 2018b, p. 3 of letter). Considerations such as these from the CASAC inform the Administrator’s conclusion (discussed in section II.B.4 below) that no revisions to the current standard, including its form, are needed.

The commenter that recommended establishment of a 24-hour standard, with a level of 40 ppb, stated that epidemiologic studies support the need for an additional 24-hour standard and note their position in the 2010 review for revision of the level of the then-existing 24-hr standard to 40 ppb, matching the level of California’s current 24-hour standard. In terms of support for their advocacy of a 24-hour standard, the commenter cited three epidemiologic studies of associations of short-term SO₂ concentrations with premature death from respiratory causes in Chinese cities and two studies of associations of longer-term SO₂ concentrations with the development of asthma (conducted in the U.S. and Canada). We disagree that these studies indicate an inadequacy of the existing standard or indicate a need for an additional standard. As an initial matter, we note that the ISA for this review has assessed the current evidence regarding SO₂ and mortality, including the evidence provided by the three studies in Chinese cities. We agree with the comment that these three studies include analyses that controlled for some co-occurring pollutants, although we note that those analyses were limited to investigation of just two co-occurring pollutants, PM₁₀ and NO₂. We additionally note that while the copollutant analyses found associations with SO₂ that generally remain positive and statistically significant after adjustment for PM₁₀, those after-adjustment associations are somewhat attenuated, indicating potential contributions to the association from PM₁₀ (ISA, section 5.2.1.2, p. 5–145).⁸² Moreover, these analyses show that after

severe as a doubling in sRaw (83 FR 26764, June 8, 2018).

⁸² When adjusted for PM₁₀ concentrations in the analyses, the magnitude of effect in the relationship between SO₂ and mortality was lower, compared to when PM₁₀ was not controlled for.

Whitman v. American Trucking Associations, 531 U.S. 457, 465–472, 475–76 (2001). Likewise, “[a]ttainability and technological feasibility are not relevant considerations in the promulgation of national ambient air quality standards.” *American Petroleum Institute*, 665 F.2d at 1185.

⁸¹ Although aspects of the studies of concentrations below 200 ppb complicate comparisons with the studies at 200 ppb, the limited evidence available does not indicate a response in any of the few subjects studied as

adjustment for NO₂, the associations are much more attenuated and lose statistical significance (ISA, section 5.2.1.2, p. 5–145). Further, none of the studies adjusted for PM_{2.5} (PM with mass median aerodynamic diameter nominally below 2.5 microns), a pollutant of particular importance with regard to potential confounding of epidemiologic analyses for SO₂ because of the fact that SO₂ is a precursor of PM_{2.5} (ISA, section 1.6.2.4; PA, section 3.2.1.1). Additionally, these studies are limited in that they were conducted in Asian cities where the air pollution mixture and concentrations are different from the U.S., *e.g.*, SO₂ concentrations are much higher than concentrations in the U.S., which limits generalizability and “complicates the interpretation of independent association for SO₂” (ISA, Table 5–21; section 5.2.1.8) at lower concentrations where there are no studies that have controlled for relevant copollutants. In consideration of the full evidence base in this review, including these studies, the ISA concludes that the evidence regarding short-term SO₂ concentrations and respiratory mortality “is inconsistent within and across disciplines and outcomes, and there is uncertainty related to potential confounding by copollutants” (ISA, p. 5–155). Accordingly, as noted in the ISA, this limited and inconsistent evidence for associations with premature mortality does not substantially contribute to the determination that short-term SO₂ exposure is causally related to respiratory effects, a determination supported primarily by evidence from controlled human exposure studies (ISA, p. 5–153).

Further, with regard to the commenter’s suggestion concerning a 24-hour standard and their reference to the current 24-hour standard in the state of California, the commenter simply states that they advocated such a standard in comments on the 2009 proposal in the 2010 review. We first note that as a general matter, we do not believe that merely stating that that was their position in the 2010 review is sufficient to raise a significant comment with reasonable specificity in this review. Moreover, we note that the California 24-hour standard was adopted in 1991, nearly 20 years prior to the EPA’s last review of the primary SO₂ NAAQS in which we reviewed the then-currently available health effects evidence.⁸³ Since that time, the body of evidence has been expanded, including the epidemiologic studies raised by the

commenter. As summarized in section II.A above, the 24-hour standard that had existed prior to the last review of the SO₂ NAAQS, was revoked based on the determination in the last review that the new 1-hour daily maximum standard would control SO₂ concentrations and protect public health from the associated short-term exposures (ranging from 5 minutes to 24 hours) with an adequate margin of safety (75 FR 35548, June 22, 2010). As summarized above and in the proposal, the evidence in this review is not substantively changed from that in the last review. Thus, based on the consistency of the currently available epidemiologic evidence (as well as the evidence from controlled human exposure studies) with that available in the last review, we continue to conclude that an additional standard with a 24-hour averaging time is not needed to provide the protection required of the NAAQS. Accordingly, we find the comment regarding a 24-hour standard and the rationale provided by the commenter to lack a foundation in the currently available health effects evidence. Furthermore, as explained in section I.A above, under section 109(b)(1) of the CAA the EPA Administrator is to set primary standards for criteria pollutants that are, in his judgment, requisite to protect public health with an adequate margin of safety, and these standards are to be based on the current air quality criteria for that pollutant. Under this framework, the mere fact that a different agency has previously established a different standard for a pollutant has no bearing on the Administrator’s conclusions. As discussed in section II.B.4 below, the Administrator judges the current standard, based on the currently available evidence and exposure/risk information, to protect public health with an adequate margin of safety. Thus, we disagree with the commenter that the existing primary standard provides inadequate public health protection or that a 24-hour standard is needed to provide the appropriate protection.⁸⁴

With regard to the epidemiologic studies of associations between long-term SO₂ concentrations and respiratory effects, including development of

asthma, the ISA concluded that, for long-term exposure and respiratory effects, the complete evidence base, including those studies cited by the commenter, was suggestive of, but not sufficient to infer, the presence of a causal relationship (ISA, Section 5.2.2, Table 5–24). While limited animal toxicological evidence suggests biological plausibility for such effects of SO₂, the overall body of evidence across disciplines lacks consistency and there are uncertainties that apply to the epidemiologic evidence, including that newly available in this review, across the respiratory effects examined for long-term exposure (ISA, sections 1.6.1.2 and 5.2.2.7). In this light, the ISA concludes that there is uncertainty remaining regarding potential copollutant confounding and an independent effect of long-term SO₂ exposure, so that chance, confounding, and other biases cannot be ruled out (ISA, Table 1–1). Thus, we disagree with the commenter that the current evidence base supports their concern regarding long-term exposure or a need for longer-term standard. In so doing, we additionally note the conclusion reached in the last review that a standard based on 1-hour daily maximum SO₂ concentrations will afford requisite increased protection for people with asthma and other at-risk populations against an array of adverse respiratory health effects⁸⁵ related to short-term SO₂ exposures ranging from 5 minutes to 24 hours. As described in section II.B.4 below, the Administrator also concludes, based on the current review of the available scientific evidence documented in the ISA (which includes the studies cited by the commenter) and the REA estimates, that the current standard continues to provide the requisite protection of public health from health effects of sulfur oxides in ambient air.

(ii) Comments in Disagreement With Proposed Decision and Calling for Less Stringent Standard

Among the five commenters recommending revision to a less stringent standard, most generally expressed the view that the current standard is more stringent than necessary to protect public health. In support of this view some of these commenters claimed that the EPA was

⁸⁴ We additionally note that in addition to the 24-hour standard of 40 ppb, the California 1-hour air quality standard for SO₂ is set at a level of 250 ppb, more than three times the level of the current primary SO₂ NAAQS that was set in 2010. The 1-hour NAAQS of 75 ppb was established to protect against short-term exposures of a few minutes up to 24 hours, and was concluded in 2010 to provide the requisite protection of public health with an adequate margin of safety that was lacking under the prior 24-hour and annual standards.

⁸⁵ The effects were recognized to include decrements in lung function, increases in respiratory symptoms, and related serious indicators of respiratory morbidity that had been investigated in epidemiologic studies, including emergency department visits and hospital admissions for respiratory causes (75 FR 35550, June 22, 2010).

⁸³ <https://www.arb.ca.gov/research/aaqs/caaqs/hist1/hist1.htm>.

inappropriately concerned with limiting 5-minute exposures of 200 ppb and higher, rather than focusing only on exposures at or above 300 ppb or 400 ppb. Based on their view that the standard should focus only on limiting population exposures to these higher concentrations, these commenters variously recommended raising the level of the standard to 150 ppb or to just below 110 ppb, or, revising the percentile aspect of the form from a 99th to a 98th percentile. Other commenters stated that even for a focus on limiting 5-minute exposures at and above 200 ppb, the current standard is overly protective. These commenters recommended either revision of the averaging time or of the form, each claiming that such a revision, accompanied by no change to any other element of the standard, would still achieve adequate protection from exposures at or above 200 ppb.

The commenters in whose view the standard did not need to limit 5-minute exposures as low as 200 ppb stated that the studies of this exposure level did not find a statistically significant lung function response across the full group of study subjects and that the EPA should focus on a higher concentration, one at which the study subject group response was statistically significant. These commenters variously state that the controlled human exposure studies do not demonstrate statistically significant responses in lung function at SO₂ exposure concentrations less than 300 ppb or 400 ppb, respectively.

The EPA disagrees with the premise of these comments that the Agency's consideration of the adequacy of protection provided by the current standard is focused solely, and inappropriately, on limiting exposures to peak SO₂ concentrations at or above 200 ppb. Both the proposed decision and the Administrator's final decision, discussed in section II.B.4 below, consider the evidence from controlled human exposure studies and what it indicates regarding the severity and prevalence of lung function decrements in people with asthma exposed to the range of concentrations from 200 ppb through 400 ppb, and above, while breathing at elevated rates. The decision also considers what can be discerned from the extremely limited evidence at 100 ppb and also what the available evidence does not address, such as the concentrations at which a moderate or greater lung function decrement⁸⁶

might be expected to be elicited in exposed young children with asthma or people of any age that have severe asthma. Given the more severe response observed in some of the study subjects exposed to 400 ppb, the greater percentage of the study subjects with at least a moderate lung function decrement at this exposure, and the frequent association of these findings with respiratory symptoms, such as cough, wheeze, chest tightness, or shortness of breath, as well as the findings of statistical significance in various studies (ISA, Table 5–2 and section 5.2.1), the Administrator recognizes the importance of the standard providing a high degree of protection from exposures at and above 400 ppb, as discussed in section II.B.4 below. Thus, we agree with commenters that it is important to consider the level of protection provided by the current standard against 5-minute exposures to 400 ppb.

We disagree, however, with commenters who claim that it is not important to also consider the protection afforded by the standard against exposures below 400 ppb (including those at 200 ppb). As discussed in section II.B.4 below, in reaching a judgment on the adequacy of the current standard, the Administrator has considered the evidence of effects from exposures below 400 ppb. In so doing, the Administrator has taken note of the findings of a statistically significant decrement in lung function at 300 ppb at the study group level for a group of more SO₂-responsive study subjects (ISA, p. 5–153; Johns et al., 2010),⁸⁷ and of the percentage of subjects (as many as nearly 10%) experiencing a moderate or greater lung function decrement in controlled exposure studies of 200 ppb (ISA, Table 3–2). In considering the public health importance of effects associated with exposure to levels of SO₂ below 400 ppb, the Administrator gives weight to these findings, particularly in light of limitations in the evidence base, as well as to the ATS statement with regard to

a doubling in sRaw or at least a 15% reduction in FEV₁ (ISA, section 5.2.1.2 and Table 5–2).

⁸⁷ As discussed in the ISA and summarized in the PA, and recognized in the last review, among individuals with asthma, some individuals have a greater response to SO₂ than other individuals with asthma or a measurable response at lower exposure concentrations (ISA, p. 5–14). Data from a study newly available in this review “demonstrate a bimodal distribution of airway responsiveness to SO₂ in individuals with asthma, with one subpopulation that is insensitive to the bronchoconstrictive effects of SO₂ even at concentrations as high as 1.0 ppm, and another subpopulation that has an increased risk for bronchoconstriction at low concentrations of SO₂” (ISA, p. 5–20).

respiratory effects in people with asthma. Based on the findings, and in light of the fact that the evidence base is lacking or extremely limited for some population groups, including particularly young children with asthma, a group which the ISA concludes to be at greater risk than other individuals with asthma, and individuals of any age with severe asthma, a group for which the ISA suggests a potential for greater sensitivity,⁸⁸ the Administrator judges it important that the standard provide appropriate protection from peak SO₂ concentrations as low as 200 ppb, as discussed in section II.B.4 below. We also note that in the decision that established the current standard, weight was given to ensuring the new standard provided some level of protection from short exposures of people with asthma, breathing at elevated rates, to concentrations as low as 200 ppb (75 FR 35546, June 22, 2010). In denying the petitions for review of that decision, the D.C. Circuit concluded that the EPA acted reasonably, and within its discretion, in considering results from the controlled human exposure studies at concentrations as low as 200 ppb (*NEDA/CAP*, 686 F.3d at 812–13). In its conclusion that the standard was neither unreasonable nor unsupported by the record, the D.C. Circuit, noted the EPA's recognition that statistical significance was not reported for lung function decrements at that exposure level, and it also cited the EPA's conclusion that some groups, such as people with severe asthma, were not included among those studied and could suffer more serious health consequences from short-term exposures to 200 ppb SO₂ (*NEDA/CAP*, 686 F.3d at 812–13).

Three of the commenters, in whose views 400 ppb or 300 ppb is the lowest SO₂ exposure level that the standard

⁸⁸ Even the study subjects described as having “moderate/severe” asthma would likely be classified as moderate by today's classification standards (83 FR 26765, June 8, 2018; ISA, p. 5–22; Johns et al., 2010; Reddel, 2009). The limited data that are available indicate a similar magnitude of relative lung function decrements in response to SO₂ as that for individuals with less severe asthma, although the individuals with more severe asthma are indicated to have a larger absolute response and a greater response to exercise prior to SO₂ exposure, indicating uncertainty in the role of exercise versus SO₂ and that those individuals “may have more limited reserve to deal with an insult compared with individuals with mild asthma” (ISA, p. 5–22). As noted previously, evidence from controlled human exposure studies are not available for children younger than 12 years old, and the ISA indicates that the information regarding breathing habit and methacholine responsiveness for the subset of this age group that is of primary school age (*i.e.*, 5–12 years) indicates a potential for greater response (ISA, pp. 5–22 to 5.25).

⁸⁶ As described in section II.A.2.c and consistent with the ISA in the last review, moderate or greater SO₂-related bronchoconstriction or decrements in lung function referred to the occurrence of at least

should protect against, stated that the standard of 75 ppb is more stringent than necessary and advocate revision of the level to a value no lower than 150 ppb, or a level just below 110 ppb.

The commenters advocating a level no lower than 150 ppb emphasize their view that the current standard is more stringent than necessary because it considers protection against 5-minute SO₂ concentrations of 200 ppb and higher rather than only 400 ppb and higher. They claim that adjusting the focus to one aimed at concentrations of 400 ppb and higher provides support for a revised level of 150 ppb and point, without further elaboration, to their comment submission during the public comment period for the 2010 rulemaking as providing supporting analysis. Similar to the cited submission from the 2010 rulemaking, the core argument of their current comments appears to be that the standard does not need to protect against exposures lower than 400 ppb, and that the EPA should not consider information about exposures as low as 200 ppb, which they claim was EPA's focus in its 2009 proposal to set the level for the new 1-hour standard within the range of 50 to 100 ppb. Rather, the commenters claimed that the EPA should focus only on 400 ppb and that based on results of analyses presented in the 2009 REA, a standard no lower than 150 ppb provides comparable protection for the 400 ppb benchmark as a standard between 50 and 100 ppb was estimated to provide for the 200 ppb benchmark. For example, the cited 2010 comment submission stated that the air quality analyses presented in the 2009 REA (based on air quality data for 40 U.S. counties from the late 1990s through 2007 and an estimated relationship between 1-hour and 5-minute concentrations, and involving the adjustment of the 1-hour concentrations to just meet different 99th percentile daily maximum 1-hour standards) indicates that the range of maximum annual mean number of days estimated to have 5-minute concentrations at or above 400 ppb at monitors adjusted to just meet 99th percentile daily maximum 1-hour standard levels of 150 and 200 ppb (7 to 13 days) was similar to the number of such days estimated to have 5-minute concentrations at or above 200 ppb at monitors adjusted to just meet 99th percentile daily maximum 1-hour standard levels of 50 and 100 ppb (2 to 13 days).

As an initial matter, as noted above, we do not believe that merely pointing to a comment or analysis offered during the last review, on the 2009 proposal, is sufficient to raise a significant comment

in this review, without further description of why the issues raised in the 2010 review are still relevant to the proposal in the current review, which the commenter has not provided. Additionally, as explained above, the EPA continues to disagree with the view that the Agency should not consider the amount of protection provided by the primary SO₂ standard against 5-minute exposures to 200 ppb SO₂ in evaluating the current standard. Further we disagree with the commenter that the air quality and exposure analyses for different standard levels presented in the 2009 REA provide an appropriate basis for considering potential exposures allowed by the current standard. This is because the air quality and exposures analyses presented in the 2009 REA are appreciably limited compared to those available in the current review. The exposure analyses for this review are extensively improved and expanded over the 2009 analyses, as summarized in section II.A.3 above, including the fact that they address the full 3-year period of the standard rather than a single year of air quality and that they assess the existing standard rather than standard levels above and below the existing level. Additionally, the air quality data available in this review are appreciably expanded since the dataset used in the 2009 REA, such that the current dataset is much more robust. As just one example of this, the analyses of frequency of 5-minute concentrations above specific benchmarks at monitors meeting the current standard have been able to be conducted with 5-minute measurements rather than 5-minute concentration estimates as was the case in the last review. These analyses of recent air quality data indicate that at monitors with concentrations that meet the current standard, the maximum annual mean number of days with a 5-minute concentration above 400 ppb was seven (PA, section 2.3.2.3, Appendix C), a value falling within the range that the 2010 comment had found acceptable for the what was to be a new 1-hour standard (based on the then-available data). Thus, putting aside the commenter's view that no weight should be given to 5-minute SO₂ concentrations below 400 ppb (a view with which we disagree as discussed above), we note that the air quality analyses available in this review, which provide a more robust characterization of 5-minute concentrations occurring in locations meeting the current standard than that estimated in the 2009 REA, indicate the control of 5-minute 400 ppb concentrations provided by the current standard to be within with the

commenter's target range. Thus, even if we accepted the premise that the current standard should be evaluated based solely on the degree of control of 5-minute 400 ppb concentrations, the basis for the commenter's concern that the current standard is overly stringent is not found in the current air quality analyses.

The comment that advocated revision of the level to a value just below 110 ppb provides little explanation for this specific alternative level. Given this commenter's emphasis on 300 ppb as the relevant benchmark from the controlled human exposure studies (and their view that EPA inappropriately considered 200 ppb), we interpret this comment as relating to application of a factor to the existing standard level, with the factor being derived by dividing 300 ppb (the exposure the commenter claims should be the focus for the standard) by 200 ppb (the concentration the commenter claims is the focus of the existing standard).⁸⁹ This commenter additionally cites several court decisions in support of EPA standard-setting decisions, two of which related to the EPA's setting of the level for the PM standard (a standard established with primary consideration of epidemiologic rather than controlled human exposure studies) at a concentration which the commenter describes as "just below" concentrations in areas and study periods for which epidemiologic studies observed a statistical association with health outcomes.⁹⁰ Thus, we interpret the comment to suggest that the standard level should be set slightly below the value resulting from application of the factor of 300 ppb divided by 200 ppb to the existing standard level of 75 ppb, *i.e.*, the level should be revised to just below about 110 ppb.

The EPA disagrees with the implication of the comment that the relevant basis for the primary standard level stems or should stem from a simple proportional relationship between the level of the 1-hour standard and the magnitude of the 5-minute concentration for which protection should be provided. Rather, consistent

⁸⁹ Multiplying 75 times 300 and dividing by 200 yields a value of 112.5 which rounds to 110 ppb.

⁹⁰ We agree with the comment states that an approach of setting standard levels below concentrations associated with statistically significant associations with negative health effects, such as in prior PM NAAQS reviews, has been upheld on judicial review. We additionally note, however, that caselaw, including that associated with challenges to the current SO₂ standard, makes clear that EPA has discretion in the approach it uses to set standard levels, provided it has presented a reasonable rationale that is supported by the record (*NEDA/CAP*, 686 F.3d at 813).

with the requirements of CAA sections 108 and 109 and the caselaw interpreting these provisions, as discussed in detail in section I.A above, the level of the standard, and the standard itself (as a reflection of its elements collectively), should be firmly based on the evidence in the review and other relevant considerations, such as consideration of the strengths and limitations of the evidence base.⁹¹ The commenter provides no explicit rationale for why they consider such a proportional relationship to be appropriate and have not provided a clear explanation, based on health effects evidence or exposure/risk information, for the value of 110 ppb. Further, even if the commenter intends to imply that if the relevant 5-minute benchmark of concern is increased by a factor (e.g., 150%), then the appropriate level for the 1-hour standard should also be increased by the same factor, the commenter provides no evidence for this assumption and the EPA is aware of none. Thus, the EPA disagrees with these comments that the level of the standard should be raised to 110 (or just below that value) or 150 ppb.

As summarized in section II.A.1 above, the existing standard, with its level of 75 ppb, was established in 2010 based on consideration of the level of protection provided from short exposures to peak concentrations of SO₂, as indicated from the REA results available at that time for standard levels above and below 75 ppb, as well as judgments of an adequate margin of safety in light of concentrations in a set of epidemiologic studies that found statistically significant associations of SO₂ concentrations with respiratory health outcomes when using copollutant models with PM. Review of the current standard is based on the health effects evidence and exposure and risk information now available, including the exposure and risk estimates for air quality scenarios in which the current standard is just met (which were not available at the time the standard was set). Based on all of the currently available information, the Administrator has concluded that the current standard (in all of its elements) remains requisite to protect public health with an adequate margin of safety (as discussed in section II.B.4, below), and that a less stringent standard would not provide adequate protection.

The commenters who stated that the percentile aspect of the form of the

standard should be revised to be the 98th percentile rather than the current 99th percentile based their rationale primarily on their views that either 300 ppb or 400 ppb is the lowest exposure level that should be considered in evaluating the protection provided by the standard. These commenters state that the EPA's 2010 selection of the 99th percentile was based on the Agency's conclusion regarding the greater effectiveness of a 99th percentile form than a 98th percentile form with regard to controlling 5-minute concentrations at and above 200 ppb. These commenters generally state that with a change in focus to one that considers only the protection provided from exposures at and above either 300 ppb or 400 ppb (a change that they advocate), a 98th percentile form would provide effective control of the relevant 5-minute concentrations. Additionally, beyond the disagreement with the EPA about the need to protect at-risk populations from exposures below 300 ppb or 400 ppb (addressed above), the commenters variously cite the following reasons for such a revision in form: (1) The view that a 98th percentile would provide greater regulatory stability than a 99th percentile form; and (2) a claim that EPA's choice of a 99th percentile form in 2010 was inappropriately based in part on concentrations in three U.S. epidemiologic studies and in part on EPA's air quality analyses of the effectiveness of control of 5-minute concentrations.⁹²

With regard to the first reason, the issue of regulatory stability was considered by the EPA in selecting the 99th percentile form when the standard was established in 2010. As described in the last review, analyses in the 2009 REA indicated that over a 10-year period, there appeared to be little difference in the stability of design values based on a 98th or 99th percentile form, leading the EPA to conclude at that time that there would "not be a substantial difference in stability between 98th and 99th percentile forms" (75 FR 35540, June 22, 2010; 2009 REA, section 10.5.3). Further, the commenter provides no alternative analysis to support their view that the 98th percentile is more stable; nor do they provide any reasoning or analysis that would demonstrate a flaw in the EPA analysis or conclusions. Thus, we are not aware of any basis for the view that a 98th

percentile form would offer greater stability.

With regard to the second reason, as an initial matter, we note that the question of whether the 99th percentile form was appropriately adopted in 2010 is a question that the EPA resolved in the last review, and one that is not before us in this review.⁹³ However, to the extent that the comment is intended to suggest that we should not retain the 99th percentile form in this review based on the objections raised in the comments, we respond as follows. First, we find the commenter to be mistaken in their assertion that the EPA's choice of the 99th percentile for the percentile aspect of the form in setting the current standard relied on specific concentrations in three U.S. epidemiologic studies. In making this assertion, the commenter incompletely paraphrases a statement in the proposal for this review regarding the elements of the 2010 standard and the Administrator's judgment that this standard would provide the requisite protection for at-risk populations against the array of adverse respiratory health effects related to short-term SO₂ exposures, including those as short as 5 minutes (83 FR 26756, June 8, 2018) and then incorrectly relates the EPA's 2010 judgment on form for the standard to a statement in the proposal in the current review that summarized 99th percentile daily maximum 1-hour concentrations⁹⁴ in a set of U.S. studies for which the SO₂ effect estimates remain positive and statistically significant in copollutant models with PM (83 FR 26765, June 8, 2018). The disconnected statements cited by the commenter do not refer to the EPA's rationale in setting the form for the current standard or its rationale in the proposal in this review to retain the current standard without revision. Rather, the basis for the form for the current standard, and rationale in this review, is summarized in sections II.A.1 and II.B.3 of the proposal (83 FR 26760, 26782, June 8, 2018)⁹⁵ and in sections

⁹³ The EPA has not reopened the last review in this action.

⁹⁴ The commenter additionally states their view regarding comparison of 99th and 98th percentiles of daily maximum hourly concentrations in these epidemiologic studies (which variously differed by some 10 to 20%) that there is little if any statistical difference between them, although no statistical analyses were submitted in support of this view.

⁹⁵ The relevant section in the **Federal Register** notification of proposed decision for this review begins with the phrase "[w]ith regard to the statistical form for the new 1-hour standard." This section is a summary of the section titled "Conclusions on Form" in the 2010 **Federal Register** notification of final decision (75 FR 35541, June 22, 2010). While the Administrator's conclusion on form for the current standard

⁹¹ For example, in *Mississippi*, 744 F.3d at 1352–53, the D.C. Circuit concluded that EPA had reasonably explained the limitations of the scientific evidence in determining the level of the 2008 ozone NAAQS.

⁹² The commenter making this claim additionally states that the EPA has not to date provided an explanation of why a 99th percentile form would be more effective than a 98th percentile form in providing such control.

II.A.1 and II.B.1 above. Briefly, the statistical form of the current standard is based on consideration of the health effects evidence, stability in the public health protection provided by the programs implementing the standard, and advice from the CASAC, as well as results of air quality analyses in the 2009 REA for alternative standard forms (75 FR 35539–41, June 22, 2010). Because the premise of the comment is mistaken, it does not provide grounds to conclude in this review that the 99th percentile form is inappropriate.

With regard to the comment about the 2009 REA air quality analyses in the 2010 review, the analyses found a 99th percentile form to be appreciably more effective at limiting 5-minute peak SO₂ concentrations than a 98th percentile form (75 FR 35539–40, June 22, 2010; 2009 REA, section 10.5.3, Figures 7–27 and 7–28). To the extent that the commenter intended to assert that it is inappropriate to retain the 99th percentile based on objections to this analysis or its consideration in establishing the form of the standard, we disagree. While the comment notes the findings of these air quality analyses and the fact that a 98th percentile form would allow appreciably more days per year with 5-minute concentrations above 400 ppb and 200 ppb, it claims that the EPA's conclusion in the last review of greater effectiveness was arbitrary and misplaced for four reasons, three of which refer to aspects of epidemiologic studies and one which appears to point to the controlled human exposure studies stating that statistically significant findings at the study group level have not been found for exposures to short-term SO₂ concentrations below 300 ppb. As above, we note that any challenges to whether the EPA reached the appropriate conclusions in the last review are not properly before us in this review, as this is a new review of the current standard based on the current record and the EPA did not reopen the last review in this action. However, to the extent that the comment is intended to suggest that we should not retain the 99th percentile form in this review

considered the need to limit the upper end of the distribution of SO₂ concentrations in ambient air to provide protection with an adequate margin of safety against effects reported in both epidemiologic and controlled human exposure studies, the choice of 99th percentile over 98th percentile was not based on specific epidemiologic study concentrations. Rather, in considering the epidemiological evidence in her decision on standard level, the Administrator considered SO₂ concentrations in three specific epidemiologic studies (as summarized in II.A.1 above) in terms of the 99th percentile in light of her selection of that percentile for the standard form (75 FR 35547, June 22, 2010).

based on these four reasons, we respond as follows. As the epidemiologic studies were not identified as a factor in the EPA's 2010 decision on the 99th percentile (versus a 98th percentile) form for the standard (75 FR 35541, June 22, 2010),⁹⁶ and were not identified as a basis for the proposal in this review to retain the current standard, without revision, we find the commenter's reasons related to epidemiologic studies to have no relevance to our decision here. With regard to statistical significance of study subject responses below 300 ppb, putting aside our disagreement with the comment about the need to protect at-risk populations from exposures below 300 ppb (addressed above), we note that the air quality analyses relied on in the 2010 decision also demonstrated greater control of 5-minute concentrations above 300 (at 400 ppb) by the 99th percentile. Further, the comment also does not provide any reason for why a 98th percentile would be a more appropriate form. Accordingly, we find the comment lacks a sound basis for any claim that the form of the standard is arbitrary and misplaced or should not be retained. Therefore, we conclude that this comment does not call into question the appropriateness of the form of the current standard.

We also disagree with these commenters that a 98th percentile form would provide effective control of short exposures to peak SO₂ concentrations, for either exposures at and above 200 ppb or exposures to the still higher concentrations on which the commenters prefer to focus (at and above 300 ppb or 400 ppb). In this regard, we note as an initial matter the EPA analysis on which the 2010 conclusion is based (summarized immediately above); that analysis, presented in the 2009 REA “indicated

⁹⁶ The EPA's consideration of epidemiologic studies in its 2010 decision on the specific percentile for the form for the standard was with regard to the appropriateness of a percentile above the 90th, and not, as implied by the commenter, with regard to the selection of the 99th percentile (e.g., as compared to the 98th percentile). Specifically, the Administrator at that time noted that, in line with the controlled human exposure study findings of effects from peak concentrations, some of the epidemiologic studies described in the 2008 ISA reported an increase in SO₂-related respiratory health effects at the upper end of the distribution of ambient air concentrations (i.e., above 90th percentile SO₂ concentrations; see ISA, section 5.3, p. 5–9). Accordingly, the Administrator concluded that the form of a new 1-hour standard should be especially focused on limiting the upper end of the distribution of ambient SO₂ concentrations (i.e., above 90th percentile SO₂ concentrations) in order to provide protection with an adequate margin of safety against effects reported in both epidemiologic and controlled human exposure studies (75 FR 35541, June 22, 2010).

that at a given SO₂ standard level, a 99th percentile form is appreciably more effective at limiting 5-minute peak SO₂ concentrations than a 98th percentile form” (75 FR 35540, June 22, 2010; 2009 REA, section 10.5.3, Figures 7–27 and 7–28). Further, we describe here a set of additional analyses of more recent air quality performed in the current review, the results of which support that conclusion in this review (Solomon et al., 2019). From these analyses of air monitoring data at 337 monitoring sites in the U.S., it can be seen that, compared to the current 99th percentile standard, a standard with an alternative 98th percentile-based form exerts less control of 5-minute peaks. For example, during this recent time period (2014–2016), there were three times as many 5-minute daily maximum concentrations at or above 400 ppb, 24 times as many such concentrations at or above 300 ppb, and more than 25 times as many such concentrations at or above 200 ppb at sites meeting an alternative 98th percentile standard as at sites meeting the current standard with its 99th percentile form (Solomon et al., 2019, Tables 1 and 2).

Thus, together, the stability analyses documented in the 2010 review and the analyses of more recent air quality demonstrate that the 98th and 99th percentile forms have similar stability, and that a standard revised to have a 98th percentile form provides appreciably less control than the current standard, both with regard to 5-minute concentrations above 400 ppb and 300 ppb, and also such concentrations above 200 ppb. The CASAC similarly concluded that the 99th percentile form is preferable to a 98th percentile form to limit the upper end of the distribution of 5-minute concentrations (Cox and Diez Roux, 2018b, p. 3 of letter). Accordingly, a standard with a 98th percentile-based form would provide less protection than that provided by the current standard from peak SO₂ concentrations, even from those at or above 400 ppb or 300 ppb, the concentrations that the commenters state are appropriate for the standard to provide protection from. Additionally, as discussed in section II.B.4 below, the Administrator considers it appropriate for the primary SO₂ standard to control 5-minute concentrations at and above 200 ppb, as well as those at and above 400 ppb, and considers the current standard, with the current form, to provide requisite protection from exposures to such concentrations. Thus, the EPA disagrees with the commenters and, for the reasons described above, finds that a revised standard with a 98th

percentile-based form would not provide the desired control of 5-minute concentrations at and above either 200 ppb or 400 ppb, nor the appropriate protection from the exposures associated with such concentrations.

Three commenters that recommended revision of the standard to be less stringent stated that, even when focused on limiting exposures at and above 200 ppb, the current standard is overly protective. These commenters recommended either revision of the averaging time or of the form, each claiming that their recommended revision, accompanied by no change to any other element of the standard, would still achieve adequate protection from exposures at or above 200 ppb. We address these comments in turn below.

The commenter that recommended revising the averaging time of the standard, stated that a standard with an averaging time of 3 hours, 8 hours, or 24 hours, and keeping all other elements of the current standard the same (including the level of 75 ppb, and the form that involves averaging annual 99th percentile daily maximum concentrations across a three consecutive period), would still be protective of a peak 5-minute 200 ppb concentration, and would provide regulatory stability. In support of this position, this commenter submitted a statistical analysis of SO₂ data from a subset of ambient air monitors in the U.S. The commenter's dataset was limited to 16 monitors located within 1 km of SO₂ emissions sources with greater than 4,000 tons per year of reported SO₂ emissions in the 2014 NEI; it included at most only 18 months of data from these monitors, and fewer data from some monitors. From the limited data available for these monitors, most of which do not yet have 3 full years of data from which to calculate a valid design value for the current standard, the commenter identified the 1-hour, 3-hour, 8-hour, and 24-hour periods in which the average concentrations were less than 75 ppb, and counted the number of times a 5-minute concentration within those periods was at or above 200 ppb. The commenter then summarized the results in terms of the percentage of the 1-hour, 3-hour, 8-hour or 24-hour periods with average concentrations less than 75 ppb that included a 5-minute concentration at or above 200 ppb. The commenter, while noting that the percentages were higher for longer periods than for shorter periods, claimed that this limited dataset covering 18 or fewer months demonstrated that even a standard with a 24-hour averaging time would be

protective of 5-minute SO₂ concentrations at and above 200 ppb.

We disagree with the commenter that their analysis is adequate to judge the level of control that the existing standard exerts over 5-minute concentrations of potential concern, much less to judge the protection provided by the current standard against exposures associated with respiratory effects in people with asthma or the adequacy of that protection. The commenter's analysis focuses on a dataset that by definition is biased to underestimate the occurrences of 5-minute concentrations at or above 200 ppb. First, by limiting the analysis to 18 months or less, the commenter's analysis did not include 3 years of data that would allow for judgment of whether or not the monitors included met the current standard or any of the suggested alternatives. Over a timeframe longer than that provided by the commenter, there would be opportunity for more peak

5-minute concentrations at or above 200 ppb. Given the lack of three full years of data to determine whether the monitor met the standard at the locations for which the commenter provided data, it is not possible to evaluate the protectiveness of the current standard or the suggested alternatives at these monitoring locations. Further, the commenter focused their statistics only on hours (or 3-hour, 8-hour or 24-hour periods) for which the average concentrations were at or below 75 ppb. Yet given the form for the current standard, a 3-year period at a location that meets the current standard (or the commenter's alternatives) could also include hours (or 3-hour, 8-hour or 24-hour periods) above 75 ppb, along with the associated 5-minute concentrations. Lastly, the commenter's analysis summarizes the occurrences of 5-minute concentrations at or above 200 ppb in terms of percentages (of hours at or below 75 ppb), rather than the number of occurrences during a year or the full 3-year period. This framing of their analysis precludes a consideration of the frequency of such peak concentrations at monitors meeting the standard. The frequency is an appropriate consideration because increasing frequency would directly relate to increasing potential for exposure to such peak concentrations, while percentage of a subset of the hours cannot be interpreted with regard to such a relevant consideration.

Accordingly, in considering the commenter's view that an alternative averaging time would still be protective of exposures to 5-minute concentrations

at or above 200 ppb, the EPA conducted an analysis that, like the commenter's analysis, focused on SO₂ monitoring sites located within 1 km of emissions sources with greater than 4,000 tons per year of reported SO₂ emissions according to the 2014 NEI, but that also included three complete years of data for each site, consistent with the form of the current standard (Solomon et al., 2019).⁹⁷ Further, the EPA analysis summarizes the frequency of occurrences of 5-minute concentrations at or above 200 ppb and does this for those monitoring locations that meet the current standard, and also at those that would meet an alternative 3-hour, 8-hour, or 24-hour standard (with a level of 75 ppb)⁹⁸ (Solomon et al., 2019, Tables 5 through 8). At sites that would meet standards with such alternative averaging times, there were many more 5-minute daily maximum SO₂ concentrations at or above 200 ppb than at sites that meet the current standard, in many instances 20 to 200 times more. (Solomon et al., 2019, Tables 5 through 8). This relates in part to the fact that more sites meet the alternative standards than the current standard due to the lesser stringency of a standard with a longer averaging time that has the same level as the current standard. Additionally, however, when evaluating 5-minute concentrations on a per-monitor basis, it can also be seen that as many as 15, 29, and 144 times more 5-minute daily maximum SO₂ concentrations at or above 200 ppb are allowed to occur at monitors that would meet an alternative standard with a 3-hour, 8-hour or 24-hour averaging time, respectively, compared with only two at the monitor meeting the current standard (Solomon et al., 2019, Table 9). Thus, it can be seen even from this analysis of the small number of sites near very large emissions sources (>4,000 tons per year in 2014 NEI), that a standard with a longer averaging time (and the level of 75 ppb) would provide less public health protection than that provided by the current 1-hour standard. We additionally note that the focus for the commenter analysis on monitors near sources emitting 4,000 or more tons per year as of 2014 yields an analysis focused on a small percentage

⁹⁷ The resulting set of 3-year data included six monitoring sites, with five of these also included in the commenter's 1-year dataset (Solomon et al., 2019). Three years of data were not available for any of the other monitors in the commenter's dataset.

⁹⁸ The Solomon et al. (2019) analysis derived DVs at each monitoring site based on the three alternative averaging times cited by the commenter. Then it sorted and binned the sites based on whether the design value was above or below a level of 75 ppb (which commenters stated to be the level for their preferred alternative standard).

of all monitors in the U.S. Although this may capture monitors near (within 1 km of) the largest sources in the U.S., it does not necessarily capture areas with the highest SO₂ concentrations that still meet the current (and the commenter's alternative) standard. For example, an analysis in the PA of all the monitors meeting the current standard documents a monitor with as many as 32 days per year having a 5-minute concentration at or above 200 ppb (PA, p. 2–12 and Appendix C, Figure C–2). Thus, we find the commenter's analysis to be insufficient to examine the implications for public health protection of a revised averaging time. Based on the more complete analyses we have conducted with recent air quality data from across the U.S., which is focused on the locations near large sources consistent with the commenter analysis and where peak concentrations would be expected to be more frequent, we find that a longer averaging time, as advocated by the comment, would be appreciably less effective at limiting 5-minute ambient air concentrations at and above 200 ppb, and also at and above 400 ppb, and, consequently, would be expected to provide a lesser level of protection of at-risk populations from exposure to such concentrations.

Three commenters recommended revising the form of the standard to remove the focus on daily maximum 1-hour concentrations. They recommended revising the form of the standard to one based on all 1-hour average concentrations (versus the daily maximum 1-hour average concentrations). They claimed that a standard with such a revised form, yet otherwise identical to the existing standard, would still be protective against short-term SO₂ exposures at or above 200 ppb. These commenters stated that a standard with such a form would be preferable to the current standard as it would consider the concentrations of all hours in a year (including multiple hours in any day) in judging attainment with the standard rather than considering only the highest 1-hour concentrations per day within the year. In supporting materials for this comment, the commenters provide an example in which the fourth highest daily maximum 1-hour concentration⁹⁹ in 2 years of the 3-year evaluation period for the standard is above 75 ppb, while this concentration in the third year is well below 75 ppb such that the current standard might be met. In the

two high years in the example, the commenters note that if all hours in the 4 days are above 75 ppb, then 96 hours (24 hours in each of the 4 days) would be above 75 ppb. Yet they claim that their example would only allow 88 hours above 75 ppb for their preferred alternative form. As the premise of their example is that there may be much higher concentrations in two of the three years, however, it is unclear why they claim only 88 hours above 75 ppb would be allowed by their preferred alternative. If the 3rd year is suitable low, there could be many more than 88 hours above 75 ppb and still meet their alternative standard. The commenters additionally provided observations related to ambient air monitoring data for 2011–2013 at monitors within the three REA study areas, and observations from a year of ambient air monitoring data at two monitors near aluminum smelters, stating that such observations supported their view regarding the protectiveness of a standard with a 99th percentile hourly form.

We disagree with these commenters' claims. As an initial matter, we find the commenters' example to be incorrect given its dependence on the specific scenario created by the commenter. We note that there are many other distributions of hourly concentrations across 3 years that could meet a design value of 75 ppb in which the total number of hours greater than 75 ppb is greater for the commenter's preferred alternative standard. Given the 3-year average aspect of the current form, the simplest example is one based on the average year. In order to meet the current standard in an average year, only 3 days (and at most the associated 72 hours) can have a daily maximum 1-hour concentration above 75 ppb because the 4th daily maximum 1-hour concentration could be no higher than 75 ppb. If the average year has a 99th percentile equal to 75 ppb (and consequently just meets the current standard), there could be no more than 72 hours above 75 ppb in each of the 3 years (3 days times 24 hours per day). Yet as the 99th percentile of the 8760 hours in a year is 88, an alternative standard with a 99th percentile hourly form could be met with 87 1-hour average concentrations above 75 ppb—15 more hours than that allowed by the current standard. Further, if the hours above 75 ppb in the average year all occurred on separate days, the commenter's alternative standard would allow there to be 87 days with a 1-hour concentration above 75 ppb, while the current standard allows there to be only 3 such days. Thus, a standard with a

99th percentile hourly form (rather than a form based on the 99th percentile of *daily maximum* 1-hour concentrations) would allow there to be many more days with an hour above the level of the standard (87 compared to 3). Given the variability in 1-hour SO₂ concentrations that is common near sources (e.g., 95th percent confidence intervals on mean hourly concentrations at six locations indicate hourly variation can be a factor of two and greater [ISA, Figure 2–23]), such a consideration is relevant. Additionally, the health effects evidence indicates a greater response associated with exposures that are separated in time compared to those that are close in time.¹⁰⁰ Together, these observations based both in the air quality data and in the health effects evidence increase the importance of exposures on separate days versus those in consecutive hours. Further, presentations in the PA of recent air quality data demonstrate the control of peak 5-minute concentrations exerted by a standard based on daily maximum 1-hour concentrations (PA, Appendix B).

In the commenters' analysis of data from monitors in the three REA study areas, they failed to recognize that all but one of these monitors had design values based on the current standard that were at or below 75 ppb (i.e., the data for only one monitor violated the NAAQS). While the commenters emphasized the few 5-minute concentrations above benchmarks across all of these monitors (five occurrences above 200 ppb across these seven monitors), we note that such a low number of elevated peak concentrations would be expected at monitors meeting the current standard. We additionally note that as shown in the commenters' submission there were seven occurrences of 5-minute concentrations above 200 ppb at the single monitor location for which the 2011–2013 data did not meet the standard. Together, we find this dataset, although very limited, documents a degree of control of peak concentrations by the current standard.

In order to more thoroughly assess the commenter's assertion that their preferred alternative hourly form would provide similar protection from 5-minute exposures at or above 200 ppb

¹⁰⁰ As noted in section II.C.2 of the proposal (83 FR 26771, June 8, 2018) and section II.A.2 above, the health effects evidence indicates a lack of a cumulative effect of multiple exposures over several hours or a day (ISA, section 5.2.1.2) and a reduced response to repeated exercising exposure events over an hour (Kehrl et al., 1987). Further, information is somewhat limited with regard to the length of time after recovery from one exposure by which a repeat exposure would elicit a similar effect as that of the initial exposure event (REA, Table 6–3).

⁹⁹ When measurements are available for all hours in a year, the 99th percentile of the 8760 hours in a year is 88, while the 99th percentile of 365 days in a year is four (and there are 96 hours in 4 days).

as the current standard, we performed two analyses, the first focused on the REA study areas and the second involving air quality data at monitors nationwide. As the exposure and risk estimates for the three REA study areas indicate the level of protection in these areas for the air quality scenario just meeting the current standard,¹⁰¹ we analyzed the estimated concentrations in this scenario for each study area to determine what the design value for a standard with the commenters' preferred alternative form (the 99th percentile of all hours in a year, averaged over 3 years). We found that such a design value in each study area would be below 75 ppb, with variation from 31 ppb to 65 ppb across the three areas related to the different temporal and spatial patterns of concentrations in those areas (Solomon et al., 2019, Table 10). This finding of lower design values (e.g., as low as 31 ppb) for a standard with such an alternative form indicates that such a form is less stringent and that to achieve similar protection against peak SO₂ exposures in the three areas, such an alternative SO₂ standard would require a standard level lower than 75 ppb. Additionally, looking at unadjusted concentrations across all U.S. monitoring sites in 2014–2016, the relationship between design values for the current standard and design values for an alternative standard with an hourly-based form (versus one based on daily maximum 1-hour concentrations) is seen to be approximately two to one, indicating that the SO₂ level associated with U.S. air quality summarized in terms of the commenter's preferred alternative form is one half the level for air quality summarized in terms of the current standard (Solomon et al., 2019, Figure 1). Thus, these additional analyses of adjusted air quality in the REA study areas and of the recent unadjusted ambient air monitoring data indicate that to achieve comparable protection of 5-minute exposures of concern, an alternative standard with a form based on the 99th percentile of all 1-hour concentrations in each year of the 3-year period (rather than the 99th percentile of daily maximum 1-hour concentrations) would need to have a level appreciably lower than 75 ppb (Solomon et al., 2019).

One of these commenters provided an analysis of ambient air monitoring data to demonstrate that an alternative standard that retains the level of 75 ppb yet revises the form to be based on the

99th percentile of all 1-hour concentrations in each year of the 3-year period would be protective of short-term exposures to 200 ppb SO₂. We find the commenter's analysis to be inadequate to support this position. This analysis is limited to just two monitors at the fenceline of an aluminum smelter facility. The NAAQS are national standards and must provide protection across all sites in the U.S. Moreover, the current standard is averaged over 3 years, but the commenter's analysis only includes 1 year of data. Thus, to consider the commenter's position using a more comprehensive dataset, we analyzed ambient air monitoring data for SO₂ at the 337 monitoring sites that met the completeness criteria for the recent 3-year period, 2014–2016. For monitors meeting the current standard and then for monitors meeting an alternative standard with an hourly form, we counted the number of 5-minute daily maximum concentrations at or above 200 ppb in each year. Across the 3-year period, for the 318 monitors meeting the current standard, there were 93 5-minute daily maximum concentrations at or above 200 ppb (Solomon et al., 2019, Table 1). There were more than six times as many such 5-minute concentrations across the same 3-year period at the 335 monitors meeting an alternative hourly standard (Solomon et al., 2019, Table 3). These results demonstrate that revision of the form to establish an alternative hourly standard, contrary to the assertion by the commenter, would result in a substantial reduction in control of 5-minute concentrations at or above 200 ppb and an associated reduction in protection from exposures to such concentrations.

One of the commenters that recommended consideration of a revised standard with a form based on the 99th percentile of all 1-hour concentrations in each year of the 3-year period additionally recommended that, if the EPA does not revise the form of the standard in such a way, the EPA should instead include a second level of evaluation of monitoring data in judging attainment of the standard. The commenter explained that, under this second level of evaluation, the EPA would not judge a monitoring site to exceed the NAAQS if the 5-minute data for that site do not include concentrations at or above 200 ppb. The framework recommended by the commenter provides that only those hours in which there is at least one 5-minute average concentration above 200 ppb (or the subset for which the 1-hour concentration is also above 75 ppb)

would be used to determine whether a monitoring site exceeded the NAAQS.¹⁰² The commenter claimed that data for monitors included in the REA study areas, and their limited analysis of 12 months of data at two monitoring locations, provided support for their position by indicating few or no 5-minute concentrations above 200 ppb during hours with average concentrations above 75 ppb. The commenter concluded, based on their analysis, that the current standard "is more stringent than is requisite to protect public health" since their limited dataset includes hours with 1-hour concentrations above 75 ppb and in which there are not any 5-minute concentrations at or above 200 ppb. The commenter further suggests that areas may be found in non-attainment of the 2010 NAAQS even if there is not a single 5-minute concentration at or above 200 ppb.

We disagree with the commenter's assertion that the absence of 5-minute SO₂ concentrations at or above 200 ppb at the two monitoring locations in their 12-month dataset shows that the current standard is more stringent than necessary. Examining a more extensive dataset demonstrates issues in the commenter's premise: Monitors exceeding the current standard also have 5-minute SO₂ concentrations at or above 200 ppb (Solomon et al., 2019, Table 1). Given the insufficiency of the commenter's dataset for reaching conclusions with regard to air quality nationally under the current standard, we investigated the frequency of 5-minute concentrations at or above 200 ppb at monitoring sites nationally. In this analysis, we reviewed the data for all 337 monitoring sites meeting completeness criteria for a recent three-year period, 2014–2016 (documented in the PA, Appendix A). The data across these 3 years at all 19 monitors that do not meet the current standard include occurrences of 5-minute SO₂ concentrations at or above 200 ppb (Solomon et al., 2019, Table 4). Further

¹⁰¹ This scenario was developed through adjustments of the hourly air quality data as described in section II.A.3.a above and described in detail in sections 3.4 and 6.2.2.2 of the REA.

¹⁰² This comment submission includes inconsistent criteria for inclusion of data for judging compliance with the standard. In one place, the commenter suggests that only those hours with an average concentration at or above 75 ppb which also have a 5-minute concentration at or above 200 ppb would be included. Elsewhere, the commenter suggests that any hour—regardless of the average 1-hour concentration—that has a 5-minute concentration at or above 200 ppb would be included. Further, the commenter does not then make clear how the data included in this more limited dataset would be evaluated when judging attainment of the standard. For example, the current requirements for deriving design values for judging whether a site violates the standard specify completeness criteria for the dataset (see appendix T to part 50).

we note that these concentrations occur in some 1-hour periods with average concentrations above 75 ppb and also in some 1-hour periods with average concentrations below 75 ppb, while the commenter appears to limit their focus only to hours with average concentrations above 75 ppb. Further, analyses of these data in the PA demonstrate the reduction of 5-minute concentrations above 200 ppb and higher benchmarks achieved by the current standard (PA, section 2.3.2.3 and Figure C-5). These analyses do not indicate overcontrol of 5-minute concentrations; for example, among sites meeting the current standard, as many as 32 days per year were recorded with a 5-minute concentration at or above 200 ppb, and as many as 7 days per year with a 5-minute concentration at or above 400 ppb (PA, section 2.3.2.3 and Figure C-5). Thus, the commenter's position that the current approach to judging attainment (based on a valid design value at or below 75 ppb) is overly stringent in its control of 5-minute concentrations at and above 200 ppb is not supported by a comprehensive analysis of the available data across the U.S.

Although the comments do not make clear the exact inclusion criteria for data or the exact calculations they are advocating be applied in the second level of evaluation for judging attainment, such a second level evaluation would appear to allow the designation of areas as attaining the current standard when the areas do not meet the standard. As specified under the Clean Air Act, primary ambient air quality standards are those the attainment and maintenance of which are judged requisite to protect public health with an adequate margin of safety. The elements of the current standard include the highest daily 1-hour concentrations, not the highest 5-minute concentrations. To apply a second level of data evaluation for purposes of determining attainment that is based on consideration of 5-minute concentrations would have the effect of changing the standard itself rather than evaluating attainment with the existing standard. Thus, we disagree with the commenter that such an evaluation could be adopted for judging attainment without effecting a change to the standard itself.

d. Other Comments

Comments on topics not directly related to consideration of the current primary standard included recommendations for addressing data gaps and uncertainties to inform future reviews. We agree with many of these

suggestions and note that the PA highlighted key uncertainties and data gaps associated with reviewing and establishing NAAQS for SO₂ and also areas for future health-related research, model development, and data gathering. We encourage research in these areas, although we note that research planning and priority setting are beyond the scope of this action.

The EPA also received several comments related to implementation of the primary SO₂ NAAQS, including comments concerning the use of AERMOD for estimating 1-hour concentrations versus concentrations over longer time periods, and comments citing facilities' difficulty demonstrating compliance with the 1-hour SO₂ standard. We are not addressing those comments here because, as described in section I.A above, this action is being taken pursuant to CAA section 109(d)(1) and relevant case law. Additionally, consistent with this case law, the EPA has not considered costs associated with attaining the standard as a part of this review, including the costs or economic impacts related to permitting or other implementation concerns, in this action (*Whitman*, 531 U.S. at 471 & n.4). Under CAA section 109(d)(1) the EPA has the obligation to periodically review the air quality criteria and the existing primary NAAQS and make sure revisions as may be appropriate. Accordingly, the scope of this action is to satisfy that obligation; it is not to address concerns related to implementation of the existing standard. State and federal SO₂ control programs, such as those discussed in section I.D, may provide an opportunity for permitting and other implementation concerns to be addressed. For example, in light of public comments suggesting potential unintended consequences for areas with low peak-to-mean SO₂ concentrations, the EPA intends to continue to work closely with the relevant air agencies for these areas in implementing the standard, building upon its 2014 Guidance for 1-Hour SO₂ Nonattainment Area SIP Submissions.¹⁰³

4. Administrator's Conclusions

Having carefully considered the public comments, as discussed above, the Administrator believes that the fundamental scientific conclusions on effects of SO₂ in ambient air that were reached in the ISA and summarized in the PA, the air quality analyses summarized in the PA, and estimates of potential SO₂ exposures and risks

described in the REA and PA, and summarized above and in sections II.B and II.C of the proposal, remain valid. Additionally, the Administrator believes the judgments he proposed to reach in the proposal (section II.D) with regard to the evidence and the quantitative exposure/risk information remain appropriate. Thus, as described below, the Administrator concludes that the current primary SO₂ standard provides the requisite protection of public health with an adequate margin of safety, including for at-risk populations, and should be retained.

In considering the adequacy of the current primary SO₂ standard in this review, the Administrator has carefully considered the policy-relevant evidence and conclusions contained in the ISA; the exposure/risk information presented and assessed in the REA; the evaluation of this evidence, the exposure/risk information and air quality analyses, and the rationale and conclusions presented in the PA; the advice and recommendations from the CASAC; and public comments, as addressed in section II.B.3 above. In the discussion below, the Administrator gives weight to the PA conclusions, with which the CASAC has concurred, as summarized in section II.D of the proposal, and takes note of key aspects of the rationale for those conclusions that contribute to his decision in this review.

In considering the PA evaluations and conclusions, the Administrator specifically takes note of the overall conclusions that the health effects evidence and exposure/risk information are generally consistent with what was considered in the last review when the current standard was established (PA, section 3.2.4). In so doing, he additionally notes the CASAC conclusion that, as the new scientific information in the current review does not lead to different conclusions from the last review, the CASAC supports retaining the current standard (Cox and Roux, 2018b, p. 3 of letter). As noted below, the newly available health effects evidence, critically assessed in the ISA as part of the full body of current evidence, reaffirms conclusions on the respiratory effects recognized in the last review, including with regard to key aspects on which the current standard is based. Further, the quantitative exposure and risk estimates for conditions just meeting the current standard indicate a similar level of protection, for at-risk populations, as that described in the last review for the now-current standard. The Administrator also recognizes limitations and uncertainties that

¹⁰³ Available at: https://www.epa.gov/sites/production/files/2016-06/documents/20140423guidance_nonattainment_sip.pdf.

continue to be associated with the available information.

With regard to the current evidence, as summarized in the PA and discussed in detail in the ISA, the Administrator takes note of the long-standing evidence that has established key health effects associated with short-term exposure to SO₂. This evidence, largely drawn from the controlled human exposure studies, demonstrates that very short exposures (for as short as a few minutes) to less than 1000 ppb SO₂, while breathing at an elevated rate (such as while exercising), induces bronchoconstriction and related respiratory effects in people with asthma and supports identification of people with asthma as the population at risk from short-term peak concentrations in ambient air (ISA; 2008 ISA; U.S. EPA, 1994).¹⁰⁴ The available epidemiologic evidence, generally consistent with that in the last review, provides support for the conclusion of a causal relationship between short-term SO₂ exposures and respiratory effects, for which the controlled human exposure studies are the primary evidence. The epidemiologic studies report positive associations of short-term (*i.e.*, hourly or daily) concentrations of SO₂ in ambient air with asthma-related health outcomes, including hospital admissions and emergency department visits. In considering these epidemiologic studies in the context of the larger evidence base, the Administrator recognizes that, as described in the ISA, while these studies analyze hourly or daily metrics, there is the potential for shorter-term peak concentrations within the study area to be playing a role in such associations. The Administrator further takes note of the associated uncertainties identified in the ISA related to potential confounding from co-occurring pollutants such as PM, a chemical mixture including some components for which SO₂ is a precursor,¹⁰⁵ and also related to the ability of available fixed-site monitors to adequately represent variations in personal SO₂ exposure, particularly with regard to peak exposures (ISA, p. 5–37; PA, section 3.2.1.4; 83 FR 26764, June 8, 2018).

With regard to health effects evidence newly available in this review, the Administrator takes note of the PA finding that, while the health effects

evidence, as assessed in the ISA, has been augmented with additional studies since the time of the last review, the newly available evidence does not lead to different conclusions regarding the primary health effects of SO₂ in ambient air or regarding exposure concentrations associated with those effects. Nor does it identify different or additional populations at risk of SO₂-related effects. Thus, the Administrator recognizes that, as in the last review, the health effects evidence continues to demonstrate a causal relationship between relevant short-term exposures to SO₂ and respiratory effects, particularly with regard to effects related to asthma exacerbation in people with asthma. He also recognizes that the ISA conclusion on the respiratory effects caused by short-term exposures is based primarily on evidence from controlled human exposure studies, also available at the time of the last review, that document moderate or greater lung function decrements and respiratory symptoms in people with asthma exposed to SO₂ for 5 to 10 minutes while breathing at an elevated rate, and that the current 1-hour standard was established to provide protection from effects such as these (ISA, section 5.2.1.9; 75 FR 35520, June 22, 2010).

With regard to exposure concentrations of interest in this review, the Administrator particularly takes note of the evidence assessed in the ISA from controlled human exposure studies that demonstrate the occurrence of moderate or greater lung function decrements, at times accompanied by respiratory symptoms, in subjects with asthma exposed for very short periods of time while breathing at elevated rates, focusing primarily on the ISA analysis of findings from such studies for which respiratory response measurements are available to the EPA for individual study subjects (ISA, Table 5–2 and Figure 5–1; PA, Table 3–1).¹⁰⁶ These data demonstrate respiratory effects in a percentage of people with asthma exposed while exercising to SO₂ concentrations as low as 200 ppb. Nearly 10% of the study subjects experienced moderate or greater lung function decrements at this exposure level and respiratory symptoms were also reported to occur in some subjects in some studies at the study group level (ISA, Table 5–2; Linn et al., 1983; Linn et al., 1987). In weighing this evidence, the Administrator notes the statements from the ATS which continue to

emphasize the importance of the consideration of effects on individuals with preexisting diminished lung function (ATS, 2000a; Thurston et al., 2017). Consistent with the ATS characterization of their most recent statement as “providing a set of considerations that can be applied in forming judgments,” the Administrator notes the importance of considering whether effects occur in people with diminished reserve, such as people with asthma, as well as consideration of the magnitude or severity of effects, the persistence or transience of the effects, and the potential for repeated occurrences (Thurston et al., 2017). Thus, as in the last review, when the current standard was set, the Administrator judges it appropriate to consider the protection provided by the current standard to the at-risk population of people with asthma from exposures to peak concentrations as low as 200 ppb while breathing at elevated rates, while also recognizing the reduced severity of effects at this exposure level, as was recognized by the Administrator in the last review.

The Administrator recognizes that both the percent of individuals experiencing lung function decrements and the severity of the decrements, as well as the frequency with which they are accompanied by symptoms, increase with increasing SO₂ concentrations across the range of exposure levels studied (ISA, Table 5–2; PA, section 3.2.1.3). For example, while almost 10% of study subjects experienced moderate or greater lung function decrements at 200 ppb, as noted above, at exposures of 300 to 400 ppb, as many as approximately 30% of subjects in some studies experienced moderate or greater decrements (as defined in section II.A above). Also, while less than 5% of study subjects exposed to 200 ppb experienced decrements that were greater than moderate, the percentage experiencing such larger decrements was nearly 15% and higher in some studies of 300 and 400 ppb (ISA, Table 5–2). Further, at concentrations at or above 400 ppb, moderate or greater lung function decrements were frequently accompanied by respiratory symptoms, such as cough, wheeze, chest tightness, or shortness of breath, with some of these findings reaching statistical significance at the study group level (ISA, Table 5–2 and section 5.2.1).

In considering the potential public health significance of these effects associated with SO₂ exposures, and documented in studies of individuals with asthma, the Administrator recognizes there to be greater significance associated with lung

¹⁰⁴ For people without asthma, such effects have only been observed in studies of exposure concentrations at or above 1000 ppb (ISA, section 5.2.1.7).

¹⁰⁵ Sulfur dioxide is a precursor to sulfate, which commonly occurs in particulate form (ISA, section 2.3; U.S. EPA, 2009, section 3.3.2 and Table 3–2).

¹⁰⁶ The availability of individual study subject data allowed for the comparison of results in a consistent manner across studies (ISA, Table-2; Long and Brown, 2018).

function decrements accompanied by respiratory symptoms and with larger decrements, both of which are more frequently documented to occur at exposures above 200 ppb, and also with the potential for greater impacts of SO₂-induced decrements in the much less well studied population of people with more severe asthma or young children with asthma, as recognized by the CASAC and summarized in sections II.A.2.d and II.B.2 above.¹⁰⁷ For example, he recognizes that health effects resulting from exposures at and above 400 ppb are appreciably more severe than those elicited by exposure to SO₂ concentrations of 200 ppb (or lower), and that health impacts of short-term SO₂ exposures (including those occurring at concentrations below 400 ppb) have the potential to be more significant in the subgroup of people with asthma that have more severe disease and for which the study data are more limited. He also notes that controlled human exposure studies may be limited or lacking in other population subgroups identified by the CASAC. Thus, the Administrator finds it important to consider the protection afforded from concentrations as low as 200 ppb, particularly in light of limitations in the evidence base for some population groups, as in the last review when the standard was set, and also judges it particularly important to provide a high degree of protection against exposures at and above 400 ppb given the increased prevalence and severity of effects in study subjects at such exposures.

In judging the level of protection afforded by the current standard, the Administrator turns to the REA, recognizing that health effects in people with asthma are linked to exposures during periods of elevated breathing rates, such as while exercising. Accordingly, the Administrator finds that, as was the case at the time of the last review, population exposure modeling that takes human activity levels into account is integral to consideration of population exposures compared to SO₂ benchmark concentrations and of population lung function risk, and that such consideration is integral to judging

whether the protection afforded by the primary SO₂ standard is requisite. He additionally notes that the populations modeled in the REA, children and adults with asthma, are those identified as at risk from SO₂ related effects.

In his consideration of the REA estimates available in this review, the Administrator recognizes a number of improvements of the current REA compared to the REA in the last review, including that the current REA assesses an air quality scenario for 3 years of air quality conditions adjusted to just meet the current standard.¹⁰⁸ The current REA is additionally expanded from the prior one with regard to the number of study areas in that it now includes three urban areas, each with populations of more than 100,000 people.¹⁰⁹ The Administrator also notes that the asthma prevalence across census tracts in the three REA study areas ranged from 8.0 to 8.7% for all ages (REA, section 5.1) and from 9.7 to 11.2% for children (REA, section 5.1), which reflects some of the higher prevalence rates in the U.S. today (PA, sections 3.2.1.5 and 3.2.2.1). The other ways in which the current REA analyses are improved and expanded from those in the REA for the last review relate to improvements that have been made to models, model inputs and underlying databases. These improvements include the database, vastly expanded since the last review, of ambient air monitoring data for 5-minute concentrations, as summarized in section II.A.3 above.¹¹⁰ While recognizing the differences between the current REA analyses and the 2009 REA analyses, the Administrator notes the PA finding of a rough consistency of the associated estimates when considering the array of study areas in both reviews. He additionally notes the PA findings that the newly available quantitative analyses comport with the conclusions reached in the last review regarding the control expected to be exerted by the now-current 1-hour standard on 5-minute exposures of concern (83 FR 26775–26776, June 8, 2018).

As at the time of proposal, the Administrator finds that when taking the REA estimates of exposure and risk together, and while recognizing the

uncertainties associated with developing such estimates for air quality conditions adjusted to just meet the current standard, the current standard provides a very high degree of protection to at-risk populations from SO₂ exposures associated with health effects of more clear public health concern, as indicated by extremely low estimates of occurrences of exposures at or above 400 ppb¹¹¹ and of lung function risk for multiple days with moderate or greater decrement as well as for single days with the occurrence of a larger decrement, such as a tripling in sRaw. In reaching this judgment, the Administrator notes that the REA results for the three REA study areas under air quality conditions that just meet the current standard indicate 99.9% or more of children with asthma, on average across the 3 year period, to be protected from experiencing as much as a single day per year with an exposure, while breathing at an elevated rate, that is at or above the benchmark concentration of 400 ppb, an exposure level frequently associated with respiratory symptoms in controlled human exposure studies. In so noting, he recognizes the limitations and uncertainties associated with the REA modeling, including those associated with simulating temporal and spatial patterns of 5-minute concentrations in areas near large sources. Moreover, he finds it important that the REA results do not estimate any children in any of the three study areas to experience more than one such exposure in a year for the assessed conditions of air quality that just meets the current standard. Given the very transient nature of the effects associated with such short SO₂ exposures (as summarized in section II.A.2.a above), the Administrator gives greater attention to such findings regarding the potential for multiple (*versus* single) days with occurrences of such exposures which he considers an additional indication of the strength of protection against the occurrence of the potential for SO₂-related health effects. The Administrator judges these REA estimates for population exposures compared to the 400 ppb benchmark to represent a very high level of protection (at least 99.7% protected from a single occurrence in the highest year and 100% protected from multiple occurrences) from the risk of respiratory effects that have been

¹⁰⁷ The ISA notes that while the extremely limited evidence for adults with moderate to severe asthma indicates such groups may have similar relative lung function decrements in response to SO₂ as adults with less severe asthma, individuals with severe asthma may have greater absolute decrements that may relate to the role of exercise (ISA, p. 1–17 and 5–22). The ISA concluded that individuals with severe asthma may have “less reserve capacity to deal with an insult compared with individuals with mild asthma” (ISA, p. 1–17 and 5–22).

¹⁰⁸ In the 2009 REA, the exposure and risk estimates were analyzed for single-year air quality scenarios for potential standard levels (50 ppb and 100 ppb) bracketing the now current level of 75 ppb.

¹⁰⁹ In the 2009 REA, there was only one urban study area included in the analysis.

¹¹⁰ Additional 5-minute monitoring data are available in this review as a result of the monitoring data reporting requirement established in the last review to inform subsequent primary NAAQS reviews for SO_x and the associated assessments (75 FR 25567–68, June 22, 2010).

¹¹¹ REA estimates are also extremely low for occurrences of exposures at or above 300 ppb, the exposure concentration at which an analysis that is newly available in this review finds statistically significant differences in response among groups of individuals with asthma that are responsive to SO₂ exposures at or below 1000 ppb (PA, Table 3–3; ISA, p. 5–153).

observed to occur in as many as approximately 25% of controlled human exposure study subjects with asthma exposed to 400 ppb while breathing at elevated rates, and that have been accompanied by respiratory symptoms (PA, Table 3–3; ISA, Table 5–2 and section 5.2.1).¹¹² He additionally notes the similarity of such findings to those considered by the Administrator in establishing the standard in 2010 in the last review (as summarized in section II.D.1. of the proposal).

The Administrator additionally finds the REA estimates for risk of moderate or greater lung function decrements, in terms of doubling and tripling of sRaw, to also indicate the current standard to provide a high level of protection for the simulated at-risk populations, including specifically the population of children with asthma. With regard to a doubling of sRaw, the REA results indicate nearly 99% or more of the at-risk population to be protected from experiencing a single day per year with this estimated magnitude of SO₂-related response, based on average estimates across the 3-year period, and 99% or more of this population to be protected from multiple such days. The REA results indicate still greater protection from a more severe tripling in sRaw, *e.g.*, more than 99.7% of children with asthma protected from experiencing a day per year with a SO₂-related tripling of sRaw, based on average estimates across the 3-year period, and at least 99.8% from experiencing multiple such days per year in areas with air quality just meeting the current standard. As with his consideration of the REA estimates for multiple days with exposures at or above benchmarks and recognizing somewhat lesser uncertainty in the comparison-to-benchmarks estimates,¹¹³ the Administrator finds these lung function risk estimates for multiple occurrences and for occurrences of days with a tripling of sRaw to also be

informative to his judgment on the appropriateness of the protection provided by the current standard. Together, the Administrator judges both sets of REA estimates to indicate that the current standard provides an appropriately high level of protection from the more severe and well characterized effects from very short exposures to SO₂, such as those at and above 400 ppb on people with asthma breathing at elevated rates.

In making this judgment, the Administrator also considers whether this level of protection is more than what is requisite and whether a less stringent standard would be appropriate to consider. In so doing, he first recognizes that a less stringent standard would allow the occurrence of higher peak SO₂ concentrations and a greater frequency of concentrations above benchmarks of interest, likely contributing to higher exposures and risks than those estimated by the REA. That is, a less stringent standard, with its lesser control on peak SO₂ concentrations, would be expected to allow a higher frequency of ambient air SO₂ concentrations at or above benchmarks of interest, including the 400 ppb benchmark, at which controlled human exposure studies of exercising people with asthma have reported nearly 25% of study subjects to experience a moderate or greater lung function decrement and nearly 10% of subjects to experience greater than moderate lung function decrements (*e.g.*, a tripling of sRaw). Such air quality patterns would likely contribute to higher exposures and risks than those estimated by the REA, and accordingly relatively lesser protection of people with asthma from exposures at or above benchmarks of interest.

Additionally, in considering potential ramifications of a less stringent standard, the Administrator recognizes that through its control of SO₂ concentrations at or above the lowest benchmark of 200 ppb, the current standard provides a margin of safety for less well studied exposure levels and population groups for which the evidence is limited or lacking. In so doing, he recognizes that our understanding of the relationships between the presence of a pollutant in ambient air and associated health effects is based on a broad body of information encompassing not only more established aspects of the evidence, such as the conclusion that exposure to higher SO₂ concentrations results in more severe lung function decrements, but also aspects with which there may be substantial uncertainty. For example, in the case of this review, he notes there

to be increased uncertainty associated with characterization of the risk of lung function decrements (including their magnitude and prevalence, and the associated public health significance) at exposure levels below 400 ppb, and indeed below those represented in the controlled human exposure studies. In this regard, the Administrator notes the uncertainty regarding characterization of the risk of respiratory effects in populations at risk but for which the evidence base is limited or lacking, such as children with asthma or individuals with more severe asthma (PA, section 3.2.2.3; REA, section 5.3). He also takes note of the CASAC comments on these uncertainties, and on consideration of these groups in assuring the standard's adequate margin of safety. Further, he considers the epidemiologic evidence, taking note of the uncertainties associated with exposure measurement error and copollutant confounding in the evidence. In considering the uncertainties in both the controlled human exposure and epidemiologic of studies, he recognizes that collectively, the health effects evidence generally reflects a continuum, consisting of levels at which scientists generally agree that health effects are likely to occur, through lower levels at which the likelihood and magnitude of the response become increasingly uncertain. In light of these uncertainties, the Administrator recognizes that the CAA requirement that primary standards provide an adequate margin of safety, as summarized in section I.A above, is intended to address uncertainties associated with inconclusive scientific and technical information, as well as to provide a reasonable degree of protection against hazards that research has not yet identified. Based on all of the considerations noted here, and considering the current body of evidence, including the associated limitations and uncertainties, in combination with the exposure/risk information, the Administrator concludes that a less stringent standard than the current standard would not provide the requisite protection of public health, including an adequate margin of safety.

Having concluded that a less stringent standard would not provide the requisite protection of public health, based in part on his judgment that the evidence and exposure/risk information indicates that the current standard provides an appropriately high level of protection from the more severe and well characterized effects on people with asthma from very short exposures to SO₂ while breathing at elevated rates

¹¹² The ISA finds controlled human exposure studies of exposures at 400 ppb to include stronger evidence (than at lower concentrations) of the occurrence of respiratory symptoms, with statistical significance (ISA, Table 5–2).

¹¹³ In considering these estimates, the Administrator recognizes the quantitative uncertainty discussed in the REA, noted in section II.A.3.b above and cited in some public comments with regard to risk estimates associated with exposure concentrations below those assessed in the controlled human exposure studies. Accordingly, he recognizes somewhat greater uncertainty associated with the lung function risk estimates than the comparison-to-benchmark estimates, and in considering the lung function risk estimates, places relatively greater weight on the estimates for occurrences of days with larger decrements (associated with relatively higher exposure concentrations).

(*e.g.*, those associated with exposures at or above 400 ppb), and in part on his judgment that a less stringent standard would not provide the appropriate margin of safety in consideration of uncertainties regarding population groups at risk or potentially at risk but for which the evidence is limited or lacking, the Administrator also judges it appropriate to consider whether the level of protection associated with the current standard is less than what is requisite and whether a more stringent standard would be appropriate to consider. In this context, he first takes note of the very high level of protection that the REA results indicate to be provided by the current standard, including 99.9% or more of the simulated at-risk population with asthma, on average across the 3-year period, to be protected from experiencing a single day with an exposure at or above 400 ppb, while breathing at an elevated rate (as well as at least 99.7% with such protection in the highest year and 100% protected from multiple occurrences).¹¹⁴ He finds such findings to indicate an appropriate level of protection from such exposures.

The Administrator additionally considers, as raised above, the level of protection offered by the current standard from exposures for which public health implications are less clear. In so doing, he again notes that information is lacking on concentrations associated with effects in populations such as young children with asthma and that information is limited for individuals of any age with severe asthma. With this in mind, he first considers the REA results for air quality adjusted to just meet the current standard across the 3-year period analyzed in each of the three study areas that indicate 0.7% or fewer of children with asthma to experience a single day per year (on average across the 3-year period) with a 5-minute exposure at or above 200 ppb in a single year, while breathing at elevated rates. Somewhat less than 0.1% of children with asthma are estimated to experience multiple such days, in any 1 year (see section II.A.3 above and section II.C.3 in the proposal). Based on the information that is available for studied individuals with asthma, summarized in section II.A.2 above, the Administrator recognizes exposures to 200 ppb to be associated

with less severe effects than those associated with higher exposures (*i.e.*, at or above 300 or 400 ppb). In recognition of the limitations in the available evidence that contribute uncertainty to our understanding of the magnitude or severity of lung function decrements in young children with asthma and in individuals of any age with severe asthma exposed to SO₂ at such lower levels, the Administrator next considers the findings of the epidemiologic studies that document positive associations of short-term concentrations of SO₂ in ambient air with asthma-related health outcomes for children, including hospital admissions and emergency department visits. Yet, in so doing, he recognizes complications in our ability to discern the exposure concentrations that may be contributing to such outcomes, noting the conclusions of the current ISA and the ISA for the last review regarding the lack of clarity in the evidence regarding the concentrations that may be eliciting the associated outcomes (83 FR 26765, June 8, 2018).^{115 116}

The Administrator additionally considers comments from the CASAC, including those regarding uncertainties that remain in this review (summarized in section II.B.2 above). In these comments, the CASAC noted that “there are many susceptible subpopulations that have not been studied and which could plausibly be more affected by SO₂ exposures than adults with mild to moderate asthma,” providing as one example, people with severe asthma, and also citing physiologic and clinical understanding (Cox and Diez Roux, 2018, p. 3 of letter). In considering these comments, in which the CASAC additionally stated that “[i]t is plausible that the current 75 ppb level does not provide an adequate margin of safety in

these groups,” the Administrator takes note of the CASAC consideration of uncertainty related to this issue and its conclusion that “the CASAC does not recommend reconsideration of the level at this time” (Cox and Diez Roux, 2018, p. 3 of letter). The Administrator further notes the CASAC overall conclusion in this review that the current evidence and exposure/risk information supports retaining the current standard.

Thus, in light of the currently available information, including uncertainties and limitations of the evidence base available to inform his judgments regarding protection for the at-risk population groups, as referenced above, as well as CASAC advice, the Administrator does not find it appropriate to increase the stringency of the standard in order to provide the requisite public health protection. Rather, he judges it appropriate to maintain the high level of protection provided by the current standard for people with asthma of different subgroups that may be exposed to such levels while breathing at elevated rates and he does not judge the available information and the associated uncertainties to indicate the need for a greater level of public health protection.

With regard to the uncertainties raised above, the Administrator notes that his final decision in this review is a public health policy judgment that draws upon scientific information and analyses about health effects and risks, as well as judgments about how to consider the range and magnitude of uncertainties that are inherent in the information and analyses. Accordingly, he recognizes that his decision requires judgments based on an interpretation of the evidence and other information that neither overstates nor understates the strength and limitations of the evidence and information nor the appropriate inferences to be drawn. He recognizes, as described in section I.A above, that the Act does not require that primary standards be set at a zero-risk level; rather, the NAAQS must be sufficient but not more stringent than necessary to protect public health, including the health of sensitive groups, with an adequate margin of safety.

Recognizing and building upon all of the above considerations and judgments, the Administrator has reached his conclusions in the current review. As an initial matter, he recognizes the control exerted by the current standard on short-term peak concentrations of SO₂ in ambient air, as indicated by the PA analyses of recent air quality data that examined the occurrence of 5-minute concentrations above benchmarks of interest (PA,

¹¹⁴ The REA estimates further indicate 99.7% or more of the simulated at-risk population with asthma, on average across the 3-year period, to be protected from experiencing a single day with an exposure at or above 300 ppb, while exercising (as well as at least 99.2% with such protection in the highest year and 100% protected from multiple such occurrences).

¹¹⁵ The ISA in the current review concluded that “[i]t is unclear whether SO₂ concentrations at the available fixed site monitors adequately represent variation in personal exposures especially if peak exposures are as important as indicated by the controlled human exposure studies” (ISA, p. 5–37). This extends the observation of the 2008 ISA that “it is possible that these epidemiologic associations are determined in large part by peak exposures within a 24-h[our] period” (2008 ISA, p. 5–5).

¹¹⁶ Notwithstanding such complications, the Administrator notes the lack of newly available epidemiologic studies for these health outcomes for children that include copollutant models for PM, and he also observes that based on data available for specific time periods at some monitors in the areas of the three such U.S. studies that are available from the last review and for which the SO₂ effect estimate remains positive and statistically significant in copollutant models with PM, the 99th percentile 1-hour daily maximum concentrations were estimated in the last review to be between 78 and 150 ppb, *i.e.*, higher than the level of the now-current 1-hour standard (83 FR 26765, June 8, 2018).

chapter 2 and Appendix B). Taking the REA estimates of exposure and risk for air quality conditions just meeting the current standard together (summarized in section II.A.3 above), while recognizing the uncertainties associated with such estimates, the Administrator judges the current standard to provide an appropriately high degree of protection to at-risk populations (and specifically people with asthma) from SO₂ exposures associated with health effects of more clear public health concern, as indicated by the extremely low estimates of occurrences of exposures at or above 400 ppb (and at or above 300 ppb). He further judges the current standard to additionally provide a slightly lower, but still appropriately high degree of protection for the appreciably less severe effects associated with lower exposures (*i.e.*, at or below 200 ppb while breathing at elevated rates), for which public health implications are less clear. In considering the adequacy of protection afforded by the current standard from these lower exposure concentrations, the Administrator recognizes, as noted above, that the effects reported at such concentrations are less severe than at the higher exposure levels. However, considering the array of limitations in the evidence with regard to characterizing the potential response of at-risk individuals to exposures below 200 ppb, as well as the limitations in the evidence for population groups at risk or potentially at risk but for which the evidence is lacking, the Administrator finds it appropriate to provide protection from these exposures in light of the CAA requirements for an adequate margin of safety to address uncertainties generally associated with limitations in the scientific and technical information and hazards that research has not yet identified. In this light, he judges the current standard to provide the appropriate protection from peak SO₂ concentrations in ambient air. Based on these and all of the above considerations, the Administrator concludes that the current primary SO₂ standard provides an adequate margin of safety against adverse effects associated with short-term exposures to SO_x in ambient air, and accordingly concludes that the current standard provides the requisite protection of public health under the Act.

With regard to key aspects of the specific elements of the standard, the Administrator recognizes the support in the current evidence base for SO₂ as the indicator for SO_x, as summarized in section II.B.1 of the proposal. In so doing, he notes the ISA conclusion that

SO₂ is the most abundant of the SO_x in the atmosphere and the one most clearly linked to human health effects. He additionally recognizes the control exerted by the 1-hour averaging time on 5-minute ambient air concentrations of SO₂ (including, particularly, concentrations at and above 200 to 400 ppb) and the associated exposures of particular importance for SO₂-related health effects (*e.g.*, as indicated by the REA estimates). After consideration of the public comments advocating revision of the averaging time, as addressed in section II.B.3 above, the Administrator continues to find that the current standard as defined by the existing 1-hour averaging time along with the other elements, is requisite. Similarly, with regard to form and level of the standard, the Administrator takes note of the REA results as discussed above and the level of protection that they indicate the elements of the current standard collectively to provide. He has additionally considered the public comments regarding revisions to these elements of the standard, as addressed in section II.B.3 above, and continues to judge that the existing level and the existing form, in all its aspects, together with the other elements of the existing standard provide the appropriate level of public health protection.

The Administrator additionally takes note of the CASAC support for retaining the current standard and the CASAC's specific recommendation that all four elements should remain the same. Beyond his recognition of this support in the available information and in CASAC advice for the elements of the current standard, the Administrator has considered the elements collectively in evaluating the health protection afforded by the current standard. For all of the reasons discussed above, and recognizing the CASAC conclusion that the current evidence and REA results provide support for retaining the current standard, the Administrator concludes that the current primary SO₂ standard (in all of its elements) is requisite to protect public health with an adequate margin of safety from effects of SO_x in ambient air, including the health of at-risk populations, and should be retained, without revision.

C. Decision on the Primary Standard

For the reasons discussed above and taking into account information and assessments presented in the ISA, REA, and PA, the advice from the CASAC, and consideration of public comments, the Administrator concludes that the current primary standard for SO_x is requisite to protect public health with an adequate margin of safety, including

the health of at-risk populations, and is retaining the current standard without revision.

III. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at <http://www2.epa.gov/laws-regulations/laws-and-executive-orders>.

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was, therefore, not submitted to the Office of Management and Budget (OMB) for review.

B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs

This action is not an Executive Order 13771 regulatory action because this action is not significant under Executive Order 12866.

C. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the PRA. There are no information collection requirements directly associated with a decision to retain a NAAQS without any revision under section 109 of the CAA. This action retains the current primary SO₂ NAAQS without any revisions.

D. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities. Rather, this action retains, without revision, the existing national standard for allowable concentrations of SO₂ in ambient air as required by section 109 of the CAA. See also *American Trucking Associations v. EPA*, 175 F.3d 1027, 1044–45 (D.C. Cir. 1999) (NAAQS do not have significant impacts upon small entities because NAAQS themselves impose no regulations upon small entities), *rev'd in part on other grounds*, *Whitman v. American Trucking Associations*, 531 U.S. 457 (2001).

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in the UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. This action imposes no enforceable duty on any state, local, or tribal governments or the private sector.

F. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175. It does not have a substantial direct effect on one or more Indian tribes. This action does not change existing regulations; it retains the current primary SO₂ NAAQS, without revision. The primary NAAQS protects public health, including the health of at-risk or sensitive groups, with an adequate margin of safety. Thus, Executive Order 13175 does not apply to this action.

H. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

This action is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866. The health effects evidence and risk assessment information for this action, which focuses on children with asthma as a key at-risk population, is summarized in sections II.A.2 and II.A.3 above and described in the ISA and PA, copies of which are in the public docket for this action.

I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution or Use

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

J. National Technology Transfer and Advancement Act

This action does not involve technical standards.

K. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

The EPA believes that this action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994). The documentation related to this is

summarized in section II above and presented in detail in the ISA for the review. The action in this notification is to retain without revision the existing primary SO₂ NAAQS based on the Administrator's conclusion that the existing standard protects public health, including the health of sensitive groups, with an adequate margin of safety. As discussed in section II, the EPA expressly considered the available information regarding health effects among at-risk populations in reaching the decision that the existing standard is requisite.

L. Determination Under Section 307(d)

Section 307(d)(1)(V) of the CAA provides that the provisions of section 307(d) apply to "such other actions as the Administrator may determine." Pursuant to section 307(d)(1)(V), the Administrator determines that this action is subject to the provisions of section 307(d).

M. Congressional Review Act

The EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

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List of Subjects in 40 CFR Part 50

Environmental protection, Air pollution control, Carbon monoxide, Lead, Nitrogen dioxide, Ozone, Particulate matter, Sulfur oxides.

Dated: February 25, 2019.

Andrew Wheeler,
Acting Administrator.

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Part III

Department of Energy

10 CFR Parts 429 and 430

Energy Conservation Program: Test Procedures for Fluorescent Lamp
Ballasts; Proposed Rule

DEPARTMENT OF ENERGY

10 CFR Parts 429 and 430

[EERE–2017–BT–TP–0005]

RIN 1904–AD67

Energy Conservation Program: Test Procedures for Fluorescent Lamp Ballasts

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice of proposed rulemaking and request for comment.

SUMMARY: The U.S. Department of Energy (DOE) proposes to revise its test procedures for fluorescent lamp ballasts. DOE proposes to update references to industry standards; clarify the selection of reference lamps; provide a second stabilization option for measuring ballast luminous efficiency; provide a test procedure for measuring the performance of ballasts at light outputs less than full light output; and revise the test procedure for measuring standby mode energy consumption. DOE is seeking comment from interested parties on the proposal.

DATES: DOE will accept comments, data, and information regarding this notice of proposed rulemaking (NOPR) no later than May 17, 2019. See section V, “Public Participation,” for details.

ADDRESSES: Any comments submitted must identify the Test Procedure NOPR for Fluorescent Lamp Ballasts, and provide docket number EERE–2017–BT–TP–0005 and/or regulatory information number (RIN) number 1904–AD67. Comments may be submitted using any of the following methods:

(1) *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

(2) *Email:* FLB2017TP0005@ee.doe.gov. Include the docket number and/or RIN in the subject line of the message.

(3) *Postal Mail:* Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, Mailstop EE–5B, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–6636. If possible, please submit all items on a compact disc (CD), in which case it is not necessary to include printed copies.

(4) *Hand Delivery/Courier:* Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, 950 L’Enfant Plaza SW, 6th Floor, Washington, DC 20024. Telephone: (202) 586–6636. If possible,

please submit all items on a CD, in which case it is not necessary to include printed copies.

No telefacsimiles (faxes) will be accepted. For detailed instructions on submitting comments and additional information on the rulemaking process, see section V of this document (Public Participation).

Docket: The docket, which includes **Federal Register** notices, public meeting attendee lists and transcripts, comments, and other supporting documents/materials, is available for review at <http://www.regulations.gov>. All documents in the docket are listed in the <http://www.regulations.gov> index. However, some documents listed in the index, such as those containing information that is exempt from public disclosure, may not be publicly available.

The docket web page can be found at https://www1.eere.energy.gov/buildings/appliance_standards/standards.aspx?productid=3. The docket web page contains simple instructions on how to access all documents, including public comments, in the docket. See section V for information on how to submit comments through <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Ms. Lucy deButts, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE–5B, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 287–1604. Email: ApplianceStandardsQuestions@ee.doe.gov.

Ms. Sarah Butler, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–1777. Email: sarah.butler@hq.doe.gov.

For further information on how to submit a comment and review other public comments and the docket, contact the Appliance and Equipment Standards Program staff at (202) 287–1445 or by email: ApplianceStandards_PublicMeetings@ee.doe.gov.

SUPPLEMENTARY INFORMATION: DOE proposes to incorporate by reference specific sections of the following industry standards into 10 CFR part 430:

(1) ANSI Standard C78.81, (“ANSI C78.81–2016”), “American National Standard for Electric Lamps—Double-Capped Fluorescent Lamps—Dimensional and Electrical Characteristics,” approved June 29, 2016.

(2) ANSI Standard C78.375A, (“ANSI C78.375A”), “American National

Standard for Electric Lamps—Fluorescent Lamps—Guide for Electrical Measures,” approved August 28, 2014.

(3) ANSI Standard C78.901, “American National Standard for Electric Lamps—Single-Based Fluorescent Lamps—Dimensional and Electrical Characteristics,” approved August 23, 2016.

(4) ANSI Standard C82.1, (“ANSI C82.1”) “American National Standard for Lamp Ballasts—Line Frequency Fluorescent Lamp Ballast,” approved November, 20, 2015.

(5) ANSI Standard C82.2, (“ANSI C82.2”) “American National Standard for Lamp Ballasts—Method of Measurement of Fluorescent Lamp Ballasts,” approved July 12, 2016.

(6) ANSI Standard C82.3, (“ANSI C82.3”) “American National Standard for Lamp Ballasts—Reference Ballasts for Fluorescent Lamps,” approved April 8, 2016.

(7) ANSI ANSLG Standard C82.11, (“ANSI C82.11”), “American National Standard for Lamp Ballasts—High Frequency Fluorescent Lamp Ballasts—Supplements,” approved January 23, 2017.

(8) ANSI Standard C82.77, (“ANSI C82.77”) “American National Standard—Harmonic Emission Limits—Related Power Quality Requirements for Lighting Equipment,” approved January 17, 2002.

Copies of ANSI C78.81–2016, ANSI C78.375A–2014, ANSI C78.901–2016, ANSI C82.1–2015, ANSI C82.2–2016, ANSI C82.3–2016, ANSI C82.11–2017, and ANSI C82.77–2002, are available at www.ansi.org or www.nema.org.

(1) International Electrotechnical Commission (IEC) Standard 60081, (“IEC 60081”), “Double Capped Fluorescent Lamps—Performance specifications (Amendment 6, Edition 5.0, August 2017).”

(2) International Electrotechnical Commission (IEC) Standard 62301, (“IEC 62301”), “Household electrical appliances—Measurement of standby power (Edition 2.0, 2011–01).”

Copies of IEC Standard 60081 (Edition 5.0) and IEC Standard 62301 (Edition 2.0) are available on IEC’s website at <https://webstore.iec.ch/home>.

For a further discussion of these standards, see section IV.N.

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I. Authority and Background

Fluorescent lamp ballasts are “covered products” for which the U.S. Department of Energy (DOE) is authorized to establish and amend energy conservation standards and test procedures. (42 U.S.C. 6292(a)(13), 6295(a)) DOE’s energy conservation standards and test procedures for fluorescent lamp ballasts are currently prescribed at 10 CFR 430.32(m) and 10 CFR 430.23(q), respectively. The following sections discuss DOE’s authority to establish test procedures for fluorescent lamp ballasts and relevant background information regarding DOE’s consideration of test procedures for this product.

A. Authority

The Energy Policy and Conservation Act of 1975, as amended (“EPCA” or “the Act”),¹ among other things, authorizes DOE to regulate the energy efficiency of a number of consumer products and industrial equipment. (42 U.S.C. 6291–6317) Title III, Part B² established the “Energy Conservation Program for Consumer Products Other Than Automobiles,” which sets forth a variety of provisions designed to improve energy efficiency. These consumer products include fluorescent lamp ballasts, the subject of this document. (42 U.S.C. 6292(a)(13))

Under EPCA, the energy conservation program consists essentially of four parts: (1) Testing, (2) labeling, (3) Federal energy conservation standards, and (4) certification and enforcement procedures. Relevant provisions of the Act include definitions (42 U.S.C. 6291), energy conservation standards (42 U.S.C. 6295), test procedures (42 U.S.C. 6293), labeling provisions (42 U.S.C. 6294), and the authority to require information and reports from manufacturers (42 U.S.C. 6296). The testing requirements consist of test procedures that manufacturers of covered products must use as the basis for (1) certifying to DOE that their products comply with the applicable energy conservation standards adopted under EPCA, and (2) making representations about the efficiency of those products. (42 U.S.C. 6295(s) and 6293(c)) Similarly, DOE must use these test procedures to determine whether the products comply with any relevant standards promulgated under EPCA. (42 U.S.C. 6295(s))

Federal energy efficiency requirements for covered products established under EPCA generally supersede State laws and regulations concerning energy conservation testing, labeling, and standards. (42 U.S.C. 6297) DOE may, however, grant waivers of Federal preemption for particular State laws or regulations, in accordance with the procedures and other provisions of EPCA. (42 U.S.C. 6297(d))

Under 42 U.S.C. 6293, EPCA sets forth the criteria and procedures DOE must follow when prescribing or amending test procedures for covered products. EPCA provides in relevant part that any test procedures prescribed or amended under this section be reasonably designed to produce test results which

measure energy efficiency, energy use, or estimated annual operating cost of a covered product during a representative average use cycle or period of use and not be unduly burdensome to conduct. (42 U.S.C. 6293(b)(3))

Additionally, EPCA directs DOE to amend its test procedures for all covered products to integrate measures of standby mode and off mode energy consumption. (42 U.S.C. 6295(gg)(2)(A)) Standby mode and off mode energy consumption must be incorporated into the overall energy efficiency, energy consumption, or other energy descriptor for each covered product unless the current test procedures already account for and incorporate standby and off mode energy consumption or such integration is technically infeasible. If an integrated test procedure is technically infeasible, DOE must prescribe a separate standby mode and off mode energy use test procedure for the covered product, if technically feasible. (U.S.C. 6295(gg)(2)(A)(ii)) Any such amendment must consider the most current versions of the International Electrotechnical Commission (IEC) Standard 62301³ and IEC Standard 62087⁴ as applicable. (42 U.S.C. 6295(gg)(2)(A))

If DOE determines that a test procedure amendment is warranted, it must publish proposed test procedures and offer the public an opportunity to present oral and written comments on them. (42 U.S.C. 6293(b)(2)) EPCA also requires that, at least once every 7 years, DOE evaluate test procedures for each type of covered product, including fluorescent lamp ballasts, to determine whether amended test procedures would more accurately or fully comply with the requirements for the test procedures to not be unduly burdensome to conduct and be reasonably designed to produce test results that reflect energy efficiency, energy use, and estimated operating costs during a representative average use cycle or period of use. (42 U.S.C. 6293(b)(1)(A)) If the Secretary determines, on his own behalf or in response to a petition by any interested person, that a test procedure should be prescribed or amended, the Secretary shall promptly publish in the **Federal Register** proposed test procedures and afford interested persons an opportunity to present oral and written data, views, and arguments with respect to such procedures. The comment period on a

¹ All references to EPCA in this document refer to the statute as amended through the EPS Improvement Act of 2017, Public Law 115–115 (January 12, 2018).

² For editorial reasons, upon codification in the U.S. Code, Part B was redesignated Part A.

³ IEC 62301, *Household electrical appliances—Measurement of standby power* (Edition 2.0, 2011–01).

⁴ IEC 62087, *Methods of measurement for the power consumption of audio, video, and related equipment* (Edition 3.0, 2011–04).

proposed rule to amend a test procedure shall be at least 60 days and may not exceed 270 days. In prescribing or amending a test procedure, the Secretary shall take into account such information as the Secretary determines relevant to such procedure, including technological developments relating to energy use or energy efficiency of the type (or class) of covered products involved. (42 U.S.C. 6293(b)(2)) If DOE determines that test procedure revisions are not appropriate, DOE must publish its determination not to amend the test procedure. (42 U.S.C. 6293(b)(1)(A))

DOE is publishing this NOPR towards satisfying the 7-year review requirement within EPCA for both the active mode and standby mode test procedures for all categories of fluorescent lamp ballasts. DOE has tentatively determined that a fluorescent lamp ballast does not have an “off mode,” as defined by EPCA (see section I.B for further details.)

B. Background

DOE’s existing test procedures for fluorescent lamp ballasts for active mode and standby mode operation appear at title 10 of the Code of Federal Regulations (CFR) part 430, subpart B, appendix Q (“Uniform Test Method for Measuring the Energy Consumption of Fluorescent Lamp Ballasts”).

DOE published a final rule establishing active mode test procedures for fluorescent lamp ballasts on April 24, 1991. 56 FR 18677. DOE last completed a full review of the active mode test procedures for fluorescent lamp ballasts on May 4, 2011. 76 FR 25211. Some of the key amendments in that test procedure final rule included updates to industry standards, adopting

ballast luminous efficiency (BLE) as the metric for measuring the energy efficiency of fluorescent lamp ballasts, and expanding the test procedure to apply to additional products.

DOE published a final rule establishing standby mode energy consumption test procedures for fluorescent lamp ballasts on October 22, 2009. 74 FR 54445. DOE determined that, according to EPCA’s definition of standby mode,⁵ fluorescent lamp ballasts capable of standby mode operation are designed to operate in, or function as, a lighting control system where auxiliary control devices send signals to the ballast; and at zero light output, the ballast is standing by, connected to a main power source without being disconnected by an on-off switch or other type of relay. Further, DOE determined that it is not possible for fluorescent lamp ballasts to meet EPCA’s definition of “off mode,”⁶ because there is no condition in which the ballast is connected to the main power source and is not in a mode already accounted for in either active mode or standby mode. 74 FR 54445, 54448.

DOE published final rules establishing and amending energy conservation standards for fluorescent lamp ballasts on September 19, 2000, and November 14, 2011, respectively. 65 FR 56740; 76 FR 70547. DOE also published final rules on February 4, 2015, June 5, 2015, and April 29, 2016, to correct and clarify certain requirements and specifications in the CFR relating to energy conservation standards and test procedures. 80 FR 5896; 80 FR 31971; 81 FR 25595.

In this rulemaking, DOE is reviewing the existing active mode and standby mode test procedures for fluorescent lamp ballasts to determine appropriate amendments to update and clarify the test procedure as well as to support the consideration of energy conservation standards for fluorescent lamp ballasts. DOE initiated a data gathering process for the test procedure and energy conservation standards for fluorescent lamp ballasts (hereafter FL Ballast ECS rulemaking)⁷ by publishing a **Federal Register** document announcing a public meeting and availability of the framework document on June 23, 2015. 80 FR 35886.

II. Synopsis of the Notice of Proposed Rulemaking

In this notice of proposed rulemaking (NOPR), DOE proposes to update the fluorescent lamp ballast test procedure as follows: (1) Update references to industry standards; (2) clarify the selection of reference lamps; (3) provide a second stabilization option for measuring ballast luminous efficiency; (4) provide a test procedure for measuring the performance of dimming ballasts at light outputs less than full light output; and (5) revise the test procedure for measuring standby mode energy consumption. DOE has tentatively determined that any change in measured values due to the proposed updates would be de minimis and the proposed test procedure would not be unduly burdensome. DOE’s proposed actions are summarized in Table II.1 and addressed in detail in section III of this document.

TABLE II.1—SUMMARY OF CHANGES IN PROPOSED TP RELATIVE TO CURRENT TP

Current DOE TP	Proposed TP	Attribution
References the 2002 version of ANSI C82.11 for testing high frequency ballasts.	Adds checks on inrush current and references lamp datasheets in ANSI C78.81 and ANSI C78.901 for appropriate maximum glow current.	Industry TP Update to ANSI 82.11.
References lamp datasheets in ANSI C78.81 to specify the appropriate reference lamp to use when testing a particular ballast.	The 2016 version of ANSI C78.81 updates the high frequency characteristics of three lamps currently referenced in Table A.	Industry TP Update to ANSI C78.81.
References lamp datasheets in IEC 60081 Amendment 4 to specify the appropriate reference lamp to use when testing a particular ballast.	Amendment 6 of IEC 60081 updates the high frequency characteristics of two lamps currently referenced in Table A.	Industry TP Update to IEC 60081.
Does not provide detail to determine which lamp to use for testing when ballasts can operate lamps of more than one base type.	Adds direction for how to select a reference lamp to use for testing fluorescent lamp ballasts designed and marketed to operate lamps of multiple base types.	Direction added by DOE.

⁵ EPCA defines “standby mode” as “the condition in which an energy-using product—(I) is connected to a main power source; and (II) offers 1 or more of the following user-oriented or protective functions: (aa) To facilitate the activation or deactivation of other functions (including active mode) by remote switch (including remote control),

internal sensor, or timer. (bb) Continuous functions, including information or status displays (including clocks) or sensor-based functions.” (42 U.S.C. 6295(gg)(1)(A)(iii)).

⁶ EPCA defines “off mode” as “the condition in which an energy-using product—(I) is connected to a main power source; and (II) is not providing any

standby or active mode function.” (42 U.S.C. 6295(gg)(1)(A)(ii)).

⁷ Information regarding the Fluorescent Lamp Ballast Rulemaking can be found on [regulations.gov](https://www.regulations.gov), docket number EERE-2015-BT-STD-0006 at <https://www.regulations.gov/docket?D=EERE-2015-BT-STD-0006>.

TABLE II.1—SUMMARY OF CHANGES IN PROPOSED TP RELATIVE TO CURRENT TP—Continued

Current DOE TP	Proposed TP	Attribution
Measures lamp arc voltage, current, and power once per second during stabilization.	Measures lamp arc voltage, current, and power once per minute during stabilization.	Direction added by DOE in response to industry comments.
Operates ballast for no longer than one hour until stable operating conditions are met.	No maximum operating time until stable operating conditions are met.	Direction added by DOE.
Has one method of stabilization where lamp arc voltage, current, and power are measured once per second until the difference between the maximum and minimum values do not exceed one percent over a four minute moving window.	Allows a second stabilization option where an oven is used to heat the ballasts prior to testing and quantities are measured once per minute.	Method added by DOE in response to industry comments.
Does not have a method to measure ballast performance at less than full light output.	Adds a method to measure ballast efficiency, a new metric, at less than full light output.	Method added by DOE in response to industry comments.
Measures standby mode power by referencing ANSI C82.2.	References IEC 62301 to measure standby mode power.	Method changed by DOE per EPCA requirements.
Ballast connects to reference lamp while measuring standby mode power.	Reference lamps are not required when measuring standby mode power.	Direction added by DOE.
No input voltage is specified when measuring standby mode power.	Includes specifications for which input voltage to operate ballasts designed and marketed to operate at multiple input voltages.	Direction added by DOE in response to industry comments.

III. Discussion

A. Scope of Applicability

This rulemaking applies to fluorescent lamp ballasts, which are devices that can start and operate fluorescent lamps by providing a starting voltage and current and limiting the current during normal operation. 10 CFR 430.2. DOE defines a fluorescent lamp as a lamp of certain shapes, lengths, bases, and wattages⁸ that is a low pressure mercury electric-discharge source in which a fluorescing coating transforms some of the ultraviolet energy generated by the mercury discharge into light. 10 CFR 430.2.

In response to the framework document, Northwest Energy Efficiency Alliance (NEEA) stated that before DOE decides whether to establish standards for additional dimming fluorescent lamp ballasts, it should examine the test procedure. (NEEA, Public Meeting

Transcript, No. 5 at p. 68)⁹ Pacific Gas and Electric Company, Southern California Gas Company, San Diego Gas and Electric Company, and Southern California Edison, collectively referred to herein as the California investor-owned utilities (CA IOUs) recommended that DOE start a new rulemaking to update DOE's test procedure for fluorescent lamp ballasts if dimming ballasts will be considered in the FL Ballast ECS rulemaking. (CA IOUs, No. 10 at p. 3)

After reviewing the test procedure for fluorescent lamp ballasts, DOE is proposing updates and revisions that will accommodate the testing of all fluorescent lamp ballasts that meet the definition. This includes a test method for ballasts that can be dimmed to make representations about performance at lower light output levels. These proposals are discussed in detail in the following sections of this document.

B. Updates to Industry Standards

The fluorescent lamp ballast test procedure currently references several industry standards. Industry periodically updates its testing method to account for changes in ballast technology and/or developments in test methodology and/or test instruments. In its review of the current test procedure, DOE noted that updated versions of referenced industry standards are available. DOE compared updated and current versions to determine, as directed by EPCA, whether incorporating by reference the latest industry standards would alter measured energy efficiency. (42 U.S.C. 6293(e)(1)) After reviewing the industry standards incorporated by reference, DOE is proposing, as shown in Table III.1, to update the industry standard references in appendix Q:

TABLE III.1—INDUSTRY STANDARDS REFERENCED IN APPENDIX Q AND THE UPDATED VERSIONS AVAILABLE

Industry standard currently referenced in appendix Q*	Updated version
ANSI C82.11 ¹⁰ version 2002 (sections 2.1 and 2.4.1 of appendix Q)	ANSI C82.11 ¹¹ version 2017.
ANSI C82.1 ¹² version 2004 (sections 2.1, 2.3.1, and 2.4.1 of appendix Q)	ANSI C82.1 ¹³ version 2015.
ANSI C82.2 ¹⁴ version 2002 (sections 2.1, 2.2.1, 2.2.2, 2.2.3, 2.4.1, 2.4.3, 2.5.1.6, 2.5.1.7, 2.5.1.8, 3.2.1, 3.3.1, and 3.3.3 of appendix Q)	ANSI C82.2 ¹⁵ version 2016.
ANSI C82.3 ¹⁶ version 2002 (section 2.4.1 of appendix Q)	ANSI C82.3 ¹⁷ version 2016.
ANSI C78.375 ¹⁸ version 1997 (section 2.4.2 of appendix Q)	ANSI C78.375A ¹⁹ version 2014.
ANSI C78.901 ²⁰ version 2005 (Table A of appendix Q)	ANSI C78.901 ²¹ version 2016.
ANSI C78.81 ²² version 2010 (sections 1.6, 1.7, 1.8, 2.1, 2.3.1, 2.4.1, and Table A of appendix Q)	ANSI C78.81 ²³ version 2016.
IEC 60081 Amendment 4, Edition 5, 2010 ²⁴ (Table A of appendix Q)	IEC 60081 Amendment 6, Edition 5, 2017 ²⁵ .

*Note: Additionally DOE is proposing to incorporate by reference ANSI C82.77–2002²⁶ and IEC 62301 Edition 2.0²⁷ in appendix Q.

⁸ See definition of “fluorescent lamps” in 10 CFR 430.2 for the specific lamps defined as fluorescent lamps.

⁹ A notation in this form provides a reference for information that is in the docket of DOE's rulemaking to review energy conservation standards for fluorescent lamp ballasts (Docket No. EERE–2015–BT–STD–0006). This notation indicates that

the statement preceding the reference is included in document number 5 in the docket for the fluorescent lamp ballasts energy conservation standards rulemaking, at page 68.

The proposed updates to industry standard references do not involve substantive changes to the test setup and methodology, but rather clarifications. DOE is also proposing to incorporate by reference ANSI C82.77–2002 because ANSI C82.11–2017 references this standard when specifying input current requirements. The following sections summarize updates relevant to DOE's test procedure for fluorescent lamp ballasts in each of the updated industry standards.

¹⁰ ANSI Standard ANSLG C82.11, *American National Standard For Lamp Ballasts—High-frequency Fluorescent Lamp Ballasts—Supplements* (approved January 17, 2002).

¹¹ ANSI Standard C82.11, *American National Standard For Lamp Ballasts—High-frequency Fluorescent Lamp Ballasts* (approved January 23, 2017).

¹² ANSI Standard C82.1, *American National Standard For Lamp Ballasts—Line Frequency Fluorescent Lamp Ballast* (approved November, 19, 2004).

¹³ ANSI Standard C82.1, *American National Standard For Lamp Ballasts—Line Frequency Fluorescent Lamp Ballast* (approved November, 20, 2015).

¹⁴ ANSI Standard C82.2, *American National Standard for Lamp Ballasts—Method of Measurement of Fluorescent Lamp Ballasts* (approved June 6, 2002).

¹⁵ ANSI Standard C82.2, *American National Standard for Lamp Ballasts—Method of Measurement of Fluorescent Lamp Ballasts* (approved July 12, 2016).

¹⁶ ANSI Standard C82.3, *American National Standard for Lamp Ballasts—Reference Ballasts for Fluorescent Lamps* (approved September 4, 2002).

¹⁷ ANSI Standard C82.3, *American National Standard for Lamp Ballasts—Reference Ballasts for Fluorescent Lamps* (approved April 8, 2016).

¹⁸ ANSI Standard C78.375, *American National Standard For Fluorescent Lamps—Guide for Electrical Measures* (approved September, 25, 1997).

¹⁹ ANSI Standard C78.375A, *American National Standard For Fluorescent Lamps—Guide for Electrical Measures* (approved August, 28, 2014).

²⁰ ANSI Standard C78.901, *American National Standards for Electric Lamps—Single-Based Fluorescent Lamps—Dimensional and Electrical Characteristics* (approved March 23, 2005).

²¹ ANSI Standard C78.901, *American National Standards for Electric Lamps—Single-Based Fluorescent Lamps—Dimensional and Electrical Characteristics* (approved August 23, 2016).

²² ANSI Standard C78.81, *American National Standard For Electric Lamps—Double-Capped Fluorescent Lamps— Dimensional and Electrical Characteristics* (approved January, 14, 2010).

²³ ANSI Standard C78.81, *American National Standard For Electric Lamps—Double-Capped Fluorescent Lamps— Dimensional and Electrical Characteristics* (approved June 29, 2016).

²⁴ IEC Standard—Double-capped fluorescent lamps—Performance specifications, (Amendment 4, Edition 5.0) (approved February 2010).

²⁵ IEC Standard—Double Capped Fluorescent Lamps—Performance specifications, (Amendment 6, Edition 5.0) (approved August 2017)."

²⁶ ANSI Standard C82.77, *American National Standard—Harmonic Emission Limits—Related Power Quality Requirements* (approved January 17, 2002).

²⁷ IEC 62301, *Household electrical appliances—Measurement of standby power* (Edition 2.0, 2011–01).

1. ANSI C82.2, ANSI C82.11, ANSI C82.77, ANSI C82.1, ANSI C82.3

DOE's current test procedure incorporates by reference ANSI C82.2–2002 for instruments, test conditions, and test measurements. DOE identified no changes in the 2016 version of C82.2 compared to the 2002 version.²⁸ DOE's review and information on the standard indicates that the revised 2016 version reaffirms the 2002 version. To align with the latest versions of industry standards, DOE proposes to update the incorporation by reference to the 2016 version of ANSI C82.2.

Currently, DOE's test procedure references sections 3.2.1 ("Operating Conditions"), 4 ("Electrical supply characteristics—test ballast measurement circuits"), 5 ("Electrical supply circuits—reference ballast measurement circuits"), 7 ("Test measurement circuits"), 8 ("Electrical Instruments"), and 13 ("Ballast efficacy factor") of ANSI C82.2–2002. In this NOPR, DOE proposes to reference only sections 3 ("Pertinent measurements"), 4, and 7 (disregarding Figure 1 and Figure 3) of ANSI C82.2–2016. DOE is proposing to no longer reference section 5 of ANSI C82.2 because it would be redundant and potentially confusing when read with other proposals in this NOPR. Section 5 of ANSI C82.2 states that reference ballasts must meet the electrical supply characteristics in ANSI C82.3 and ANSI C78.375. In this NOPR, DOE is proposing to explicitly state that reference ballasts must meet the requirements in ANSI C82.3, which also references ANSI C78.375 (see section III.D.1). To provide one set of direct and consistent industry references for reference ballasts, DOE is proposing to remove references to section 5 of ANSI C82.2. Section 8 of ANSI C82.2 only states instruments should meet the requirements outlined in ANSI C78.375. To streamline referenced in the DOE test procedure, DOE is proposing to directly reference ANSI C78.375 for specifications regarding instruments (see section III.D.1). DOE is proposing to not reference section 13 of ANSI C82.2 because it is not necessary. Section 13 specifies measurement of the ballast efficacy factor, a measurement that is not required by the DOE test procedure. As noted, the revised ANSI C82.2–2016 proposed for incorporation contains no changes compared to the currently referenced ANSI C82.2–2002. However, the latest versions of the industry standards, ANSI C82.1 and ANSI C82.11

²⁸ DOE notes the 2016 version of ANSI C82.2 contains a typographical error where the required ambient temperature is stated as 25OC ± 1OC instead of 25°C ± 1°C.

cited in relevant sections of ANSI C82.2 have been modified.

DOE's current test procedure states that where ANSI C82.2–2002 references ANSI C82.1, the operator must use the 2004 version of ANSI C82.1 to test low-frequency ballasts, and the 2002 version of ANSI C82.11 to test high-frequency ballasts. DOE proposes to update these instructions (and the corresponding incorporations by reference in 10 CFR 430.3) to the 2017 version and 2015 version, respectively.

DOE identified the following seven changes in the 2017 version of ANSI C82.11 compared to the 2002 version:

- A small decrease in the range of ambient temperatures within which a ballast must operate to be within the stated scope of the standard. As discussed further below, this change has no effect on DOE's test procedure.

- Removal of the definition section.

The 2017 version instead directly references ANSI C82.13 for definitions regarding fluorescent lamps and ballasts.

- Reference to lamp datasheets in ANSI C78.81 and ANSI C78.901 for thresholds of lamp current in reference lamps instead of specifying these thresholds within ANSI C82.11.

- Reference to ANSI C82.77 for limits on harmonic distortion of input currents instead of specifying these limits within ANSI C82.11.

- Addition of thresholds for aggregate peak inrush current amplitude and duration of steady state current.

- Reference to lamp datasheets in ANSI C78.81 and ANSI C78.901 instead of specifying the maximum glow current during ballast starting time within ANSI C82.11.

- Addition of Annex D, "Dimming Ballast Efficiency Test Method."

Below is more detailed discussion of each change.

First, the 2017 version of ANSI C82.11 describes the scope as ballast and lamp combinations normally intended for use in ambient temperatures 10 to 40 Celsius, which is a slight reduction from the stated scope of the 2002 version (10 to 41 Celsius). This change has no effect on DOE's test procedure because DOE's test procedure is applicable to any product that meets the definition of a fluorescent lamp ballast and that definition does not specify an ambient temperature range.

Second, the 2017 version of ANSI C82.11 removed the definitions section and instead now references ANSI C82.13.²⁹ ANSI C82.13 is an industry

²⁹ ANSI Standard C82.13, *American National Standard For Lamp Ballast—Definitions for Fluorescent Lamps and Ballasts* (approved July 23, 2002).

standard for fluorescent lamp and ballast definitions and is also referenced by DOE's test procedure. DOE has tentatively determined this change has no effect on the DOE test procedure because the definitions are already explicitly defined in appendix Q. Therefore, this update to the referenced industry standard would not impact the current requirements of the DOE test procedure.

Third, the 2002 version of ANSI C82.11 states that the lamp current in a reference lamp shall not exceed 107.5 percent of the current delivered to the same lamp by a reference ballast at its rated value. The maximum threshold in the 2017 version instead is as specified in ANSI C78.81 and ANSI C78.901, with minimum limits specified in the specific lamp datasheet. DOE's test procedure already requires adhering to the 2017 limits; it requires following specifications in the applicable lamp datasheet in ANSI C78.81 and ANSI C78.901 for reference lamps (see section III.B.3). The specific lamp datasheet to use for a reference lamp is specified in Table A in appendix Q. Therefore, this update to the referenced industry standard would not impact the current requirements of the DOE test procedure.

Fourth, the 2017 version of ANSI C82.11 references ANSI C82.77–2002 for limits to the harmonic distortion of input currents. These limits are identical to those specified in ANSI C82.11–2002, and therefore, the update to the referenced industry standard would not change the current requirements of the DOE test procedure. Because ANSI C82.11–2017 explicitly references ANSI C82.77–2002 for harmonic distortion of input currents, DOE proposes to incorporate by reference ANSI C82.77–2002 into appendix Q.

Fifth, the 2017 version of ANSI C82.11 adds requirements on inrush currents in a ballast circuit, stating that the aggregate peak inrush current amplitude and duration for each value of steady state current must be less than a set of given values. These added instructions regarding inrush current, which is current drawn when the ballast is first turned on, aid in establishing stable operating conditions for the lamp and ballast system. DOE has tentatively determined that these straightforward checks on inrush current will aid in establishing final stable operating conditions. This update to the industry standard would have minimal impact on current requirements. Additionally, the 2017 version of ANSI C82.11 adds Annex C, “(Normative) Methods of Measurements.” DOE has tentatively determined that the applicable parts of

Annex C address test steps for which the DOE test procedure is already providing explicit instructions. Therefore, the inclusion of Annex C would not impact the current requirements of the DOE test procedure. The 2017 version of ANSI C82.11 also updates its normative references section to remove, add, and update versions of certain industry standards. DOE determined that of these changes only updated references to ANSI C82.2–2002 (R2007, R2016), ANSI C82.3–2016 and ANSI C78.81–2010 were relevant to the DOE test procedure. Versions of these industry standards are already incorporated by reference in 10 CFR 430.3 for appendix Q and therefore, would be referenced to execute the DOE test procedure. DOE is retaining the currently incorporated 2010 version of ANSI C78.81 for compliance purposes (see section III.B.3). DOE is proposing to update to the 2016 versions of ANSI C82.2 and ANSI C82.3 and as discussed in this section has tentatively determined that the updates in these versions would not impact the current DOE test procedure. Therefore, DOE has tentatively determined that this update to references in ANSI C82.11–2017 has no impact on the current DOE test procedure requirements.

Sixth, instead of stating that maximum glow current during ballast starting time is not to exceed 25 milliamps as in the 2002 version of ANSI C82.11, the 2017 version references the appropriate thresholds in the lamp datasheets in ANSI C78.81 and ANSI C78.901. DOE tentatively determined the change in the maximum glow current requirement will result in a more precise threshold but minimal difference in each sample unit's starting characteristics. This update to the industry standard would have minimal impact on current requirements. In addition, the 2017 version of ANSI C82.11 removes thresholds for starting time that are based on supply frequency of commercially available magnetic ballasts, but retains the primary threshold criteria for starting time. DOE tentatively concluded this change is removing a description no longer necessary for the testing of electronic ballasts, the subject of ANSI C82.11. Hence this update to the industry standard would have no impact on the current requirements of the DOE test procedure.

Seventh, the 2017 version of ANSI C82.11 adds Annex D, “Dimming Ballast Efficiency Test Method.” This test method describes how to measure ballast output power and input power at 50 to 100 percent of light output, specifically including cathode power in

the ballast output power measurement. The test method also specifies a pre-stabilization procedure in which the ballast is preheated in an oven and the reference lamp pre-burned before the lamp-and-ballast system is connected for stabilization. The procedure is very similar to the test procedure proposed by Philips (see section III.D.3.a). In this NOPR, DOE is proposing the test procedure described in Annex D of ANSI C82.11–2017 as a method to make representations of ballast performance at light output levels less than full light output. See section III.D.4 for further discussion.

Certain sections of ANSI C82.2–2016 that DOE proposes to incorporate by reference also reference ANSI C82.1 for the testing of low frequency ballasts. The DOE test procedure currently incorporates by reference the 2004 version of ANSI C82.1. As part of its review, DOE compared the 2015 and 2004 versions of ANSI C82.1 and identified no changes in the 2015 version of ANSI C82.1 compared to the 2004 version. To align, as much as possible, with the latest versions of industry standards, DOE proposes to update its incorporation by reference to the 2015 version of ANSI C82.1. Therefore, this update to the referenced industry standard would not impact the current requirements of the DOE test procedure.

DOE's current test procedure incorporates by reference the 2002 version of ANSI C82.3, which specifies the design features and operational requirements of reference ballasts when operating fluorescent lamps to determine the appropriate reference lamp. DOE proposes to update its test procedure by incorporating by reference the 2016 version instead of the 2002 version. DOE identified four changes in the 2016 version of ANSI C82.3 compared to the 2002 version: three related to tolerances (impedance, frequency, and voltage), and a clarification about instruments. First, for high frequency operation, the 2016 version of ANSI C82.3 removes the impedance tolerance of 1 percent for currents between 50 and 115 percent of the calibration current of the reference ballast. Second, the 2016 version of ANSI C82.3 removes frequency tolerances for different types of reference ballasts when operating with a lamp. Third, when operating a reference ballast with a lamp at high frequency, the 2016 version of ANSI C82.3 increases the power supply voltage tolerance from 0.2 percent to 1.0 percent. The 2016 version of ANSI C82.3 removes impedance tolerances at certain currents and the frequency

tolerance and allows a wider range for power supply voltage tolerance, and therefore, could allow for minor changes in the measured value of current, frequency, or voltage. However, DOE's current test procedure requires that selected reference lamps meet specific current, frequency, and voltage requirements specified in the relevant lamp datasheets in ANSI C78.81 and ANSI C78.901. Therefore, even while applying updated tolerance requirements, the final measured current, frequency, and voltage must meet the existing requirements in the referenced lamp datasheets. Hence, if all requirements for reference lamps in DOE's test procedures are satisfied, DOE has tentatively determined that changes in impedance, frequency, and voltage tolerances in ANSI C82.3 will not affect the selection of the appropriate reference lamp. Fourth, the 2016 version of ANSI C82.3 has updated its instruments section to reference ANSI C82.11 instead of stating "details are under consideration." This update would not affect the current test procedure because these instrumentation requirements are already specified in section 2.2 of the test procedure.

In summary, DOE proposes to incorporate by reference the 2016 version of ANSI C82.2, the 2017 version of ANSI C82.11, the 2002 version of ANSI C82.77, the 2015 version of ANSI C82.1, and the 2016 version of ANSI C82.3 in appendix Q. DOE has tentatively determined that these updates would not result in changes to values of BLE measured at full light output because the differences do not result in substantive changes to test setup or methodology. Incorporation by reference of the latest versions of industry standards will also better align the DOE test procedures with test methods that industry considers to be improvements to previous methods. DOE tentatively finds that these industry updates further increase the clarity of the DOE's test procedures. DOE requests comments on its proposal to incorporate by reference the 2016 version of ANSI C82.2, the 2017 version of ANSI C82.11, the 2002 version of

ANSI C82.77, the 2015 version of ANSI C82.1, and the 2016 version of ANSI C82.3 in appendix Q.

2. ANSI C78.375A ³⁰

DOE's current test procedure incorporates by reference the 1997 version of ANSI C78.375 to specify requirements for temperature and air movement in the test facility. DOE's test procedure also references the 2002 version of ANSI C82.2, which references the 1997 version of ANSI C78.375 for specifications regarding electrical instruments and ambient conditions for lamp measurements. The 2014 version of ANSI C78.375A does not update specifications for ambient conditions, such as room temperature/air movement, for lamp measurements or electrical instruments. Although there are some changes in the normative references section to update to lamp datasheets in newer versions of ANSI C78.81 and ANSI C78.901 and to update to the referenced version of ANSI C82.3, these changes do not affect instructions for instrumentation and ambient conditions in DOE's test procedure. Hence these updates to the industry standard would have no impact on the current requirements of the DOE test procedure.

DOE proposes to incorporate by reference the 2014 version of ANSI C78.375A in appendix Q because DOE has tentatively determined that doing so would not make substantive changes to test setup and methodology. Incorporation by reference of this latest version will also better align DOE test procedures with updates to industry test methods. DOE tentatively finds that these industry updates further increase the clarity of the test methods. DOE requests comments on its proposal to incorporate by reference the 2014 version of ANSI C78.375A in appendix Q.

3. ANSI C78.81, ANSI C78.901, and IEC 60081 Amendment 6

Table A in DOE's current test procedure incorporates by reference

³⁰ Note that the 1997 version of this standard is titled ANSI C78.375 but the 2014 version is titled ANSI C78.375A.

lamp datasheets in ANSI C78.81–2010, ANSI C78.901–2005, and IEC 60081 Amendment 4 to specify the appropriate reference lamp to use when testing a particular ballast. DOE's current test procedure also incorporates by reference version 2002 of ANSI C82.2 for test measurements, which specifies operating the test ballast at the rated frequency and input voltages as specified in the ANSI C78 lamp datasheets. The 2016 version of ANSI C78.81 updates three of the lamp datasheets currently referenced in Table A: (1) 32 W 4-foot medium bipin T8 lamp (updated datasheet from version 1005–2 to version 1005–4), (2) 86 W 8-foot recessed double contact T8 lamp (updated datasheet from version 1501–1 to 1501–2) and, (3) 59 W 8-foot single pin T8 lamp (updated datasheet from version 1505–1 to version 1505–2). The 2016 version of ANSI C78.901 updates the lamp datasheet for the 32 W 2-foot U-shaped medium bipin T8 lamp referenced in Table A (datasheet from version 4027–1 to version 4027–2). Amendment 6 of IEC 60081 updates two other lamp datasheets referenced in Table A: (1) 54 W 4-foot miniature bipin T5 HO (datasheet 60081–IEC 6840–4 to 60081–IEC 6840–5) and (2) 28 W 4-foot miniature bipin T5 SO (datasheet 60081–IEC 6640–5 to 60081–IEC 6640–6). DOE also proposes to remove references to "rapid-start lamps" and "instant-start lamps" in the "Ballast Type" column in Table A. The starting method (e.g. rapid start, instant start) is dictated by the type of ballast and the lamp datasheet provides the appropriate reference lamp specifications for the applicable starting method. Hence including the lamps' associated starting method in this table is confusing and unnecessary. Changes to the lamp datasheets in ANSI C78.81 and IEC 60081 will have minimal impact on current requirements.

Table III.2 is a summary of differences DOE identified between the updated lamp datasheets compared to the versions currently referenced in appendix Q.

TABLE III.2—UPDATED LAMP DATASHEETS REFERENCED IN APPENDIX Q

Lamp type	Current specifications referenced in appendix Q	Updated specifications
32 W 4-foot medium bipin T8 lamp Datasheet 7881–1005	Provides low and high frequency specifications HF Reference Arc Power: 29 W HF Operating Voltage: 136 V Datasheet Version 2 (7881–1005–2)	Removes low frequency specifications. HF Reference Arc Power: 29.2 W. HF Operating Voltage: 137 V. Datasheet Version 4 (7881–1005–4).
86 W 8-foot recessed double contact T8 lamp .. Datasheet 7881–1501	HF Reference Arc Power: 84.0 W HF Operating Voltage: 216 V Datasheet Version 1 (7881–1501–1)	HF Reference Arc Power: 85.0 W. HF Operating Voltage: 216 V. Datasheet Version 2 (7881–1501–2).
59 W 8-foot single pin T8 lamp Datasheet 7881–1505	Provides low and high frequency specifications HF Reference Arc Power: 57 W HF Operating Voltage: 272 V Lamp Current: 0.213 A Datasheet Version 1 (7881–1505–1)	Removes low frequency specifications. HF Reference Arc Power: 57.1 W. HF Operating Voltage: 270 V. Lamp Current: 0.215 A. Datasheet Version 2 (7881–1505–2).
32 W 2-foot U-shaped medium bipin T8 lamp ... Datasheet 78901–4027	Provides low frequency operation specifications Datasheet Version 1 (78901–4027–1)	Removes low frequency operation specifications. Datasheet Version 2 (78901–4027–2).
54 W 4-foot miniature bipin T5 HO Datasheet 60081–IEC 6840	Maximum Operation Current: 0.625 A Maximum Current input to the cathode: 0.65 A. Datasheet Version 4 (60081–IEC 6840–4)	Maximum Operation Current: 0.62 A. Maximum Current input to the cathode: 0.67 A. Datasheet Version 6 (60081–IEC 6840–6).
28 W 4-foot miniature bipin T5 SO Datasheet 60081–IEC 6640	Maximum Operation Current: 0.205 A Maximum Current input to the cathode: 0.220 A. Datasheet Version 5 (60081–IEC 6640–5)	Maximum Operation Current: 0.210 A. Maximum Current input to the cathode: 0.240 A. Datasheet Version 7 (60081–IEC 6640–7).

Updates to the 2016 versions of ANSI C78.81 and ANSI C78.901 remove the low frequency specifications from lamp datasheets for the 32 W 4-foot medium bipin T8 lamp, 59 W 8-foot single pin T8 lamp, and 32 W 2-foot U-shaped medium bipin T8 lamp. Low frequency lamp characteristics and reference ballast characteristics are necessary to determine the appropriate reference lamp for testing low frequency ballasts. A part of the identification process of a reference lamp is testing it on a reference ballast. Therefore, DOE is proposing to provide low frequency lamp characteristics (*i.e.*, arc wattage, approximate cathode wattage, total wattage, voltage, and current), reference ballast characteristics (*i.e.*, rated input voltage, reference current, impedance) and cathode heating requirements for rapid start circuits in appendix Q for low frequency ballasts that operate 32 W 4-foot medium bipin T8 lamps, 59 W 8-foot single pin T8 lamps, and 32 W 2-foot U-shaped medium bipin T8 lamps. Hence these updates to the industry standard would not impact the current requirements of the DOE test procedure.

Further, DOE has tentatively determined that changes to the values of reference lamp characteristics from updating the reference of ANSI C78.81 to the 2016 version, ANSI C78.901 to the 2016 version, and IEC 60081 Amendment 4 to IEC 60081 Amendment 6 are within testing tolerances and therefore, minor. Incorporation of these latest versions would also better align

DOE test procedures with updates to test specifications that industry considers to be improvements to previous methods. Therefore, DOE proposes to incorporate by reference the 2016 version of ANSI C78.81, the 2016 version of ANSI C78.901, and Amendment 6 of IEC 60081 in appendix Q. DOE requests comments on its proposal to update ANSI C78.81 to the 2016 version, ANSI C78.901 to the 2016 version, and IEC 60081 Amendment 4 to IEC 60081 Amendment 6.

C. Definitions

Several definitions and directions in the current and proposed DOE test procedure for FLBs use the term “designed and marketed.” Currently, “designed and marketed” means that the intended application of the lamp is clearly stated in all publicly available documents (*e.g.*, product literature, catalogs, and packaging labels). (See 10 CFR 430.2 for full definition.) DOE proposes to specify that the term also refer to the intended application of the ballast as the latter part of the definition clearly states that the term is applicable to fluorescent lamp ballasts.

To streamline and simplify the test procedure, DOE proposes to remove the following terms that are currently defined but will no longer be used in the revised test procedure: AC control signal, cathode heating, DC control signal, F34T12 lamp, F96T12/ES lamp, F96T12HO/ES lamp, PLC control signal, and wireless control signal. Regarding

the terms for control signals, DOE is proposing to use updated terminology reflective of the products currently available on the market. Regarding the other proposed deletions, the changes do not impact the current requirements of the DOE test procedure because they are not used in either the current or the proposed test procedure. DOE requests comments on its proposal to remove definitions.

D. Proposed Amendments to Active Mode Test Method

1. Instrumentation and Test Setup

In the instrumentation section, 2.2, of the active mode test procedure in appendix Q, DOE proposes to reference section 9 (“Electrical Instruments”) of ANSI C78.375A–2014 instead of referencing ANSI C82.2 generally. Section 8 of ANSI C82.2 states that instruments used for measuring lamp and ballast systems shall meet requirements in ANSI C78.375. DOE notes that the currently incorporated ANSI C82.2–2002 and proposed for incorporation ANSI C82.2–2016 both reference the 1997 version of ANSI C78.375. DOE’s proposal to incorporate by reference the 2014 version of ANSI C78.375 (referred to as ANSI C78.375A) in appendix Q does not change existing requirements because ANSI C78.375A–2014 makes no updates to its electrical instruments section compared to the 1997 version, ANSI C78.375 (see section III.B.2).

In addition, DOE proposes to amend the test setup section, 2.3, of the active mode test procedure to: (1) More precisely reference industry standards and (2) rename the “Power Analyzer” subsection to “Test Circuits” and clarify requirements for the power analyzer. DOE also proposes to add provisions for selecting reference lamps to increase clarity. These changes in appendix Q are discussed in further detail below.

Section 2.1 “Active Mode Procedure” of DOE’s current test procedure requires that where ANSI C82.2 references ANSI C82.1, ANSI C82.1 must be used for testing low-frequency ballasts and ANSI C82.11 must be used for testing high-frequency ballasts. To clarify when to use which ANSI standard, DOE proposes to include specific references in test setup, section 2.3.1, which currently references ANSI C82.1 and ANSI C78.81 without specific instruction regarding low- or high-frequency ballasts. In addition, DOE also proposes to add an instruction to disregard section 5.3 (“Ballast Output”) of ANSI C82.1, which specifies minimum power factor requirements that may be confused with the minimum power factor requirements set forth in DOE’s energy conservation standards for fluorescent lamp ballasts (see 10 CFR 430.32(m)). Further DOE proposes to disregard section 5.3.1 (“Ballast Factor”) in ANSI C82.11 because the DOE test procedure does not specify determination of ballast factor. DOE also proposes to disregard Annex D (“Dimming Ballast Energy Efficiency Test Method”) and 5.13 (“Ballast Efficiency”) in ANSI C82.11 for the active mode test procedure of measuring BLE at full light output, a metric that is different from ballast efficiency described in these sections. Note that DOE is proposing a test method that references Annex D for the active mode test procedure to measure ballast efficiency at lower light output levels (see section III.D.4). DOE also proposes to remove the reference in section 2.3.1 to ANSI C78.81 for wiring instructions as this industry standard does not provide instructions on wiring a lamp and ballast circuit. Finally, DOE proposes to add the instruction that specifications in referenced industry standards that are recommended, stated as “shall” or “should” be met, or that are not clearly mandatory are, for purposes of the DOE test procedure, mandatory (unless they conflict with language in appendix Q) to ensure testing is conducted in a fair and uniform manner by different entities to yield consistent results.

In evaluating the test setup section in the active mode test procedure, DOE has

tentatively determined that the “Power Analyzer” section, currently section 2.3.2, provides instructions not only for the power analyzer but also for connecting the power supply, ballast, and lamp in the appropriate circuit. Therefore, DOE proposes to rename this section as “Test Circuits.” One of the current requirements in section 2.3.2 is that the power analyzer must have “ $n + 1$ ” channels where “ n ” is the number of lamps the ballast can operate. However, to ensure that the power analyzer has enough channels, DOE proposes to clarify that “ n ” is the maximum number of lamps the ballast is designed and marketed to operate. DOE requests comment on its proposal to clarify that the power analyzer must have one more channel than the maximum number of lamps the ballast is designed and marketed to operate.

In addition, based on its review of the existing test procedure and products currently available on the market, DOE has tentatively determined that more information is needed in appendix Q to specify which lamps to use to test ballasts. The market now offers certain ballasts that each can operate lamps of more than one lamp base type—for example, T5 (miniature bipin), T8 (medium bipin), and T12 lamps (both recessed double contact and slimline). The existing test procedure does not provide enough detail to determine which lamp to use for testing these ballasts. Therefore, DOE proposes to amend the test procedure to clarify requirements for selecting the reference lamp to use for testing these ballasts. First, DOE proposes that a ballast designed and marketed to operate lamps of multiple base types, except for sign ballasts, must be tested with one base type in the following order of decreasing preference: Medium bipin, miniature bipin, single pin, and recessed double contact. Second, DOE proposes to require, after selecting the base type, selecting lamp(s) of only one diameter, in the following order of decreasing preference: T8, T5, or T12. The order of preferences specified for selecting base type and diameter is based on the most common products on the market. DOE has tentatively determined these proposed updates to appendix Q provide further clarification and do not impact the current requirements of the DOE test procedure. DOE requests comments on the proposed amendments for selecting the appropriate base type and diameter for reference lamps operated by ballasts that can operate lamps with multiple base types and diameters.

Finally, section 2.3.1.3 of appendix Q specifies that the fluorescent lamp used

for testing must be a reference lamp as defined in ANSI C82.13 and be seasoned for at least 12 hours. ANSI C82.13 states that reference lamps are “seasoned lamps which under stable operating conditions and in conjunction with the specified reference ballast operate at” certain voltage, wattage, and current. DOE proposes updates to this section by requiring testing each reference lamp with a reference ballast that meets the criteria of the 2016 version of ANSI C82.3, the industry standard for reference ballasts of fluorescent lamps. Based on the definition of a reference lamp in ANSI C82.13 and industry practice, manufacturers should already be using an industry-approved reference ballast to select the reference lamp. This explicit instruction ensures that the correct procedures and requirements are followed when identifying a reference lamp. In addition, DOE proposes to include the stabilization criteria as specified in the proposed section 2.5.2.1 (see section III.D.3.a) for stabilizing reference lamps. ANSI C82.13 states that reference lamps must have certain values under stable operating conditions and the proposed stabilization criteria sets forth how to determine whether the conditions have stabilized. DOE has tentatively determined the proposed update to require testing each reference lamp with a reference ballast that meets the criteria of the 2016 version of ANSI C82.3 provides further clarification and would not impact the current requirements of the DOE test procedure.

2. Test Conditions

DOE proposes to amend the test conditions section of the active mode test procedure to provide more specific references to sections of referenced industry standards. Instead of generally referencing all of ANSI C82.2 for test conditions, DOE proposes to specifically reference ANSI C82.2 sections 3 “Pertinent measurements” and 4 “Electrical supply characteristics—test ballast measurement circuits.” After reviewing ANSI C82.2 DOE has tentatively determined that these sections provide applicable requirements for establishing the appropriate test conditions. Section 3 of ANSI C82.2 requires that ballast input and output measurements comply with specifications in ANSI C82.1 (as incorporated in the proposed appendix Q, this instruction applies to low-frequency ballasts; for high-frequency ballasts appendix Q requires the specifications in ANSI C82.11). Section 4 of ANSI C82.2 provides specifications regarding test voltage, frequency, line voltage wave shape, supply voltage, and

supply-source impedance. Additionally, section 2.4.2 of appendix Q of DOE's current test procedure references ANSI C78.375 to specify requirements for temperature and air movement in the test facility. DOE proposes to specifically reference ANSI C78.375A section 4, "Ambient Conditions for Lamp Measurements," which contains the appropriate information for temperature and air movement requirements. DOE has tentatively determined that these updates would provide more direct references of how to take measurements. Hence, the proposed updates to appendix Q would only provide further clarification and would not impact the current requirements of the DOE test procedure.

DOE requests comments on the proposal to remove general references to ANSI C82.2 and ANSI C78.375 and instead specifically reference ANSI C82.2 sections 3 and 4 and ANSI C78.375A section 4 for test conditions in the active mode test procedure in appendix Q.

3. Test Method for BLE

DOE proposes to amend the test method section of the active mode test procedure to (1) revise the stabilization procedure, including adding a second stabilization option, and (2) require measuring lamp arc current and voltage as root mean square (RMS) values. The changes are discussed in further detail below.

a. Stabilization Criteria

In the framework document for the FL Ballast ECS rulemaking, DOE received several comments regarding a second stabilization option when measuring BLE. The National Electrical Manufacturers Association (NEMA) and Philips Lighting (Philips) stated that although the current DOE test procedure provides consistent and repeatable results, some technical experts have been considering a second stabilization option that removes the need to acquire large amounts of data but yields comparable results to the current DOE test procedure. (Philips, No. 8 at p. 2; NEMA, No. 12 at p. 2)³¹ NEMA noted that industry has been engaged with the ANSI Accredited Standards Committee examining a modified stabilization procedure and also encouraged DOE to review it to reduce testing time and costs. (NEMA, No. 12 at p. 2) Universal Lighting Technologies (ULT) agreed that DOE should review this stabilization procedure to remove the need to obtain

large amounts of data. (ULT, No. 6 at p. 2)³²

Philips explained that the second stabilization option would require preheating potted ballasts at 40 °C in an oven until they are stable, typically for three to four hours. In the meantime, the test lamp(s) should be pre-burned while connected to a ballast with similar output power, lamp current, and ballast factor as the ballast being tested. Specifically, four-foot T8 lamps should be pre-burned for 15 minutes and four-foot T5 lamps and eight-foot T8 and T12 should be pre-burned for at least two hours. The ballast should be kept in the oven until ready to be connected to the test lamp for stabilization. Philips stated that stabilization should be done according to IES LM-9³³ section 6.2.3. Accordingly, six measurements of parameters (*i.e.*, input power, lamp power, lamp current, and lamp voltage) should be taken over five minutes and the difference between the minimum and maximum of each of lamp arc power, lamp current, and lamp voltage divided by the average value of the measurements should be less than or equal to 1 percent to be considered stable. Philips explained that upon completion of the test the ballast will remain on the test bench until the next ballast to be tested is ready to be removed from the oven. Philips asserted that this method would minimize the time the test lamps are off, thereby reducing the stabilization time and, subsequently, the overall testing time. (Philips, No. 8³⁴ at pp. 2–3)

Philips provided BLE test data using the current DOE test procedure and the second stabilization option for T5 and T8 rapid start and T8 instant start ballasts. For each type of ballast Philips tested five units of four different models and provided an average BLE for each model at 120 V and 277 V. Philips asserted that their stabilization method provided consistent test results similar to the current DOE test procedure while reducing the amount of data that must be recorded. (Philips, No. 8³⁵ at pp. 2–5)

³² This document was submitted to the docket of DOE's rulemaking to review energy conservation standards for fluorescent lamp ballasts (Docket No. EERE-2015-BT-STD-0006).

³³ IES LM-9, Illuminating Engineering Society—Approved Method for the Electrical and Photometric Measurement of Fluorescent Lamps (approved January 31, 2009).

³⁴ This document was submitted to the docket of DOE's rulemaking to review energy conservation standards for fluorescent lamp ballasts (Docket No. EERE-2015-BT-STD-0006).

³⁵ This document was submitted to the docket of DOE's rulemaking to review energy conservation standards for fluorescent lamp ballasts (Docket No. EERE-2015-BT-STD-0006).

DOE considered the second stabilization option recommended by Philips in its evaluation of the test method for the active mode test procedure and reviewed the data Philips provided. The data showed slight differences in average BLEs based on whether DOE's test procedure or the second stabilization option was used. However, DOE found these differences to be de minimis. Based on this review, DOE agrees that the second stabilization option would save overall testing time, particularly when testing large numbers of ballasts (one after the other). Therefore, DOE is proposing to allow the stabilization method recommended by Philips as a second stabilization option when testing for BLE (see proposed appendix Q, section 2.5.2.2 "Option 2"). The Option 2 stabilization method is described in Annex D of ANSI C82.11. Specifically, DOE is proposing that stable operating conditions under this option be determined according to steps 1 through 6 of section D.2.1 in Annex D of ANSI C82.11. DOE has tentatively determined this proposed update to appendix Q would provide another method for stabilization and because it is optional would not impact the current requirements of the DOE test procedure unless a manufacturer voluntarily decides to use the optional method.

In addition to allowing a second stabilization option, DOE is proposing a few changes to the existing stabilization method (proposed in section 2.5.2.1 "Option 1" of appendix Q). DOE reviewed the stabilization criteria in IES LM-9 (proposed in the Option 2 stabilization method) and tentatively determined that taking measurements once per minute to determine if a fluorescent lamp has stabilized is sufficient to determine if a fluorescent lamp ballast has stabilized. Therefore, in addition to proposing this criteria in the Option 2 stabilization method, DOE proposes to modify the current requirement that lamp arc voltage, current, and power be measured once per second, to require instead that those factors be measured once per minute in the Option 1 stabilization method. DOE does not find a need to restrict the maximum time required to achieve stable operating conditions and therefore, proposes to remove the requirement that the ballast must be operated for no longer than one hour until stable operating conditions are met. DOE has tentatively determined that these changes to the sampling frequency would not impact final steady-state conditions reached. Therefore, these proposed updates to

³¹ These documents were submitted to the docket of DOE's rulemaking to review energy conservation standards for fluorescent lamp ballasts (Docket No. EERE-2015-BT-STD-0006).

appendix Q would have minimal impact on the requirements of the current DOE test procedure. DOE requests comments on its proposal to include a second stabilization option, change the sampling frequency from one second to one minute in Option 1, and remove the restriction against operating a fluorescent lamp ballast for longer than one hour to determine stable operating conditions in Option 1.

b. Measurements

DOE's test procedure currently requires measurement of lamp arc current and lamp arc voltage but does not specify whether these are peak, average, or RMS values. Based on general industry practice of electrical circuit measurements, DOE has interpreted these measurements to be RMS values. For clarity, DOE proposes to require the measurement of lamp arc current and voltage as RMS values. DOE has tentatively determined these proposed updates to appendix Q provide further clarification and would not impact the current requirements of the DOE test procedure. DOE requests comments on the specification that lamp arc current and lamp arc voltage be RMS values.

DOE's test procedure also currently references section 7 of ANSI C82.2 for measuring input power and sections 3.2.1 and 4 of ANSI C82.2 for measuring input voltage and current. Upon further review of these sections, DOE has tentatively determined that to measure input power, Figure 1 and Figure 3 referenced in section 7 of ANSI C82.2 are not relevant. Figure 1 is not relevant for input power measurements as it specifies a measurement circuit to determine lamp current, lamp voltage, and lamp power, which are output measurements of the ballast. Figure 3 is unnecessary as it specifies a circuit to measure current in rapid start ballasts. DOE's test procedure already provides a measurement circuit for rapid start ballasts. However, Figure 2 of section 7 of ANSI C82.2 demonstrates the setup to measure a ballast's input voltage and current. DOE is proposing to exclude section 3.2.1 of ANSI C82.2 as it only lists parameters to measure for ballast input operating conditions and no measurement specifications. DOE is proposing to reference section 4 of ANSI C82.2 only for test conditions (see section III.D.2) as it provides electrical supply specifications. DOE has tentatively determined that these sections are not pertinent to taking measurements of input voltage and input current. Therefore, for taking measurements DOE proposes to remove referenced sections 3.2.1 and 4 of ANSI

C82.2 and reference section 7 of ANSI C82.2, adding instruction to disregard references to Figure 1 and Figure 3. DOE has tentatively determined these proposed updates to appendix Q provide further clarification and do not impact the current requirements of the DOE test procedure. DOE requests comments on its proposal to remove the ANSI C82.2 references of sections 3.2.1 and 4 from the steps to measure input voltage and current and to narrow the scope of section 7 of ANSI C82.2, for measuring input power, to exclude Figure 1 and Figure 3.

4. Measuring Ballast Performance at Less Than Full Light Output

In this NOPR, DOE proposes a test method to support industry in making representations of ballast performance at light output levels that are less than full light output. DOE received several comments on the framework document for the FL Ballast ECS rulemaking regarding measuring the performance of fluorescent lamp ballasts at dimmed light output levels. CA IOUs measured the performance of ballasts at 100 percent of full light output and at input powers decreased by 5 percent increments until zero light output using the DOE's current test procedure for BLE. Based on this data the CA IOUs noted that ballasts that have the same BLE at full light output may not perform the same at lower light output levels. Because of this difference of BLE at lower light outputs, the CA IOUs stated that California Energy Commission (CEC) has proposed standards for dimming fluorescent ballasts based on weighting the ballast efficiency measurements at 100 percent, 80 percent, and 50 percent of full light output in order to generate one BLE value.³⁶ CA IOUs stated that DOE

³⁶ The CEC published a proposal for testing deep-dimming fluorescent lamp ballasts at total arc power tuned to 100, 80, and 50 percent of the measured maximum arc power, according to DOE's test procedure for fluorescent lamp ballasts. CEC proposed to define deep-dimming fluorescent ballasts as ballasts able to operate lamps in dimmed operating modes at any number of levels at or below 50 percent of full light output and include only ballasts that operate one, two, three, or four T5 or T8 4-foot linear or U-shape fluorescent lamps. Further CEC proposed to define arc power as the entire output power of the ballast and delivered to all attached lamps. CEC also proposed weighting the ballast efficiency measurements at 100 percent, 80 percent, and 50 percent of full light output in order to generate one BLE value. California Energy Commission, "Proposed Amendments to Appliance Efficiency Regulations," *Appliance Efficiency Rulemaking for Toilets, Urinals, Faucets, HVAC Air Filters, Fluorescent Dimming Ballasts, and Heat Pump Water Chilling Packages*, 15-AAER-01, February 20, 2015 (http://docketpublic.energy.ca.gov/PublicDocuments/15-AAER-01/TN203715_20150220T140835_Proposed

should consider using measurements at the 80 percent and 50 percent points but supported additional test points below 50 percent of full light output and recommended DOE conduct further analysis on the feasibility of measurements at lower light output levels. (CA IOUs, No. 10 at p. 2–3; CA IOUs, Public Meeting Transcript, No. 5 at p. 17) The Appliance Standards Awareness Project (ASAP) agreed with CA IOUs that the test procedure and metric should be amended to measure BLE at partial light output, specifically testing at 80 and 50 percent of full light output in addition to 100 percent. (ASAP, No. 7 at pp. 2–3)

Philips commented that BLE is a logical method for measuring performance of fixed light output ballasts but that ballast efficiency should be used for measuring performance of ballasts at dimmed light output levels. (Philips, No. 8³⁷ at p. 16) Philips explained that to dim light output the lamp power and thereby cathode power is reduced, resulting in operation below the lamp's thermoemissive operational point which could shorten lamp life, causing blackening at the ends of the lamp, and causing unstable lamp operation. Therefore, most ballasts provide added cathode power in dimming mode. As such, Philips recommended using a ballast efficiency metric that would include cathode power, unlike the BLE metric, which does not. Philips noted that because dimmable lamps have two pins on each side, three different measurements must be taken with the lamp to determine the lamp voltage, including cathode voltage. However, Philips stated that a multiport power analyzer can be used to measure the voltage of three pins in reference to another and thereby reduce the time needed to measure lamp power including cathode power. (Philips, No. 8³⁸ at pp. 21–29)

Philips also presented an example of a 2-lamp T8 MBP 32 W ballast showing that at full light output BLE and ballast efficiency are the same. However, at dimmed light output levels the ballast efficiency is higher than BLE because ballast efficiency uses total lamp output power including cathode power but BLE uses total lamp arc power. Philips

Amendments to Appliance Efficiency Regulations.pdf).

³⁷ This document was submitted to the docket of DOE's rulemaking to review energy conservation standards for fluorescent lamp ballasts (Docket No. EERE-2015-BT-STD-0006).

³⁸ This document was submitted to the docket of DOE's rulemaking to review energy conservation standards for fluorescent lamp ballasts (Docket No. EERE-2015-BT-STD-0006).

concluded that using the BLE metric at dimmed output levels would underrepresent the efficiency of the ballast. (Philips, No. 8³⁹ at pp. 16–29) Therefore, Philips asserted and NEMA agreed that including cathode power in the metric used to evaluate ballast performance at lower light outputs is important because cathode power provides utility to dimming ballasts at dimmed light output levels. (Philips, No. 8⁴⁰ at pp. 16–29; NEMA, No. 12 at p. 7)

DOE is proposing amendments to the test method to address measuring ballasts at light outputs lower than full light output. DOE understands that cathode power is utilized, and even required, at certain dimmed light output levels. DOE also appreciates comments explaining that multiple measurements would be required for one measurement of cathode power, though the time required to do that could be minimized by using a multiport power analyzer. DOE is continuing to provide a method for measuring BLE at full light output for representations and for showing compliance with the current energy conservation standards, but DOE is also proposing a method to measure ballast efficiency at reduced light output levels for representations in the marketplace as reflected in the latest industry standard. DOE has tentatively determined that this proposed update to appendix Q provides a test method that may be needed for making certain representations but does not change current requirements of the DOE test procedure.

DOE notes that since the publication of the framework document for the FL Ballast ECS Rulemaking, ANSI C82.11 has been updated to include new Annex D, a test method to measure the ballast efficiency at light output levels less than 100 percent. Ballast efficiency (BE) is equal to the ballast output power divided by the ballast input power. Ballast output power includes not only the lamp arc power but also the filament power and power provided for other features such as networking and sensors. Thus, ballast efficiency is a different metric than BLE. DOE proposes to include in appendix Q an option to use the test procedure outlined in Annex D of ANSI C82.11–2017 if manufacturers want to make representations of ballast efficiency at

light output levels less than 100 percent. Annex D states, and DOE's proposed test method will specify, that the test method contained within applies only to measuring light output levels down to 50 percent of full light output. Annex D requires using the Option 2 stabilization method, discussed in section III.D.3.a, which requires preheating ballasts at 40 °C in an oven until they are stable. DOE requests comment on the proposed method for measuring BE at light output levels less than full light output, specifically whether measurements for the BE metric could be taken when ballasts are operating at light output levels less than 50 percent of full output.

E. Proposed Amendments to Standby Mode Test Method

EPCA section 325(gg)(2)(A) directs DOE to establish test procedures to include standby mode, “taking into consideration the most current versions of Standards 62301 and 62087 of the International Electrotechnical Commission. . . .” (42 U.S.C. 6295(gg)(2)(A)) IEC Standard 62087 applies only to audio, video, and related equipment, not to lighting products. Because IEC Standard 62087 does not apply to lighting products, DOE proposes to incorporate by reference IEC Standard 62301, which applies generally to household electrical appliances. The current test procedure requires measuring standby mode energy consumption following provisions of ANSI C82.2, the same industry standard that is incorporated into DOE's current active mode test procedure. However, while ANSI C82.2 is not specific to standby mode energy consumption measurements, the IEC 62301 standard does provide requirements for measuring standby mode energy consumption. DOE proposes requiring similar test setup and conditions for both the standby mode and active mode test procedure for consistency. DOE also proposes requiring stabilization and subsequent measurement of standby mode energy consumption according to the measurements section of IEC 62301 (*i.e.*, section 5), instead of ANSI C82.2. DOE has tentatively determined that the instructions and criteria specified in IEC 62301 for stabilization and subsequent measurement of standby mode power consumption is appropriate for fluorescent lamp ballasts. Therefore, DOE proposes to incorporate by reference IEC 62301 (edition 2.0) in appendix Q and reference section 5 for the standby mode test procedure of fluorescent lamp ballasts. DOE seeks comments on its proposal to incorporate

IEC 62301 by reference and referencing section 5 of IEC 62301 for stabilization and subsequent standby mode energy consumption measurements.

In response to the framework document for the FL Ballast ECS rulemaking, the CA IOUs stated that ballasts operated with communication protocols such as Digital Addressable Lighting Interface (DALI) consume standby mode power. The CA IOUs noted that the CEC proposed a required test based on DOE's standby mode test procedure for measuring standby mode power consumption for ballasts operated with such controls. However, the CA IOUs recommended that DOE amend its standby mode test procedure to specify that a communications network (if applicable) should be connected to the ballast during testing to capture energy use in “network standby.” The CA IOUs stated that this is important because ballasts will likely be consuming additional energy while actively “listening” for commands when connected to a communications network. (CA IOUs, No. 10 at p. 3)

In response to these comments, DOE recently published an RFI on the emerging smart technology appliance and equipment market. 83 FR 46886 (Sept. 17, 2018). In that RFI, DOE sought information to better understand market trends and issues in the emerging market for appliances and commercial equipment that incorporate smart technology. DOE's intent in issuing the RFI was to ensure that DOE did not inadvertently impede such innovation in fulfilling its statutory obligations in setting efficiency standards for covered products and equipment. In this NOPR, DOE seeks comment on the same issues presented in the RFI as they may be applicable to fluorescent lamp ballasts.

Both the active mode and standby mode test procedures measure input power of the ballast. As such, for consistency within the test procedure and to reduce the test burden, DOE proposes requiring similar general test setup and conditions for both tests. To accomplish this, DOE proposes to add a test setup section in the standby mode test procedure with the following directions: (1) Use instruments as specified in the active mode test procedure; and (2) operate each ballast with lamps as specified in active mode test procedure except that the use of reference lamps is not required. Because lamps are not turned on during the measurement of standby mode power consumption, DOE has tentatively determined that the specific lamps to which the ballast is connected do not affect standby mode energy consumption measurements. DOE

³⁹ This document was submitted to the docket of DOE's rulemaking to review energy conservation standards for fluorescent lamp ballasts (Docket No. EERE–2015–BT–STD–0006).

⁴⁰ This document was submitted to the docket of DOE's rulemaking to review energy conservation standards for fluorescent lamp ballasts (Docket No. EERE–2015–BT–STD–0006).

requests comments on referencing the active mode test procedure sections pertaining to instrumentation and connection of lamps (with the exception of reference lamp specifications) in the standby mode portion of the DOE test procedure.

DOE's existing test conditions for the standby mode test procedure reference sections 5, 7, and 8 of ANSI C82.2. DOE is proposing to reference the active mode test conditions, which references section 9 of ANSI C78.375A regarding instrumentation (see section III.D.1) and sections 3 and 4 of ANSI C82.2, and section 4 of ANSI C78.375A (see section III.D.2), for the standby mode test conditions. Because both the active mode test procedure and standby mode test procedure measure input power of the ballast, DOE has tentatively determined that the same provisions of ANSI C78.375A for instrumentation and ANSI C82.2 for test conditions are also appropriate for the standby mode test procedure. As such, DOE proposes to reference the test conditions for the active mode test procedure instead of repeating those references to ANSI C78.375A and ANSI C82.2 in the standby mode test conditions. DOE requests comments on referencing the active mode test conditions for standby mode test conditions in the standby mode test procedure.

In the framework document for the FL Ballast ECS rulemaking, NEMA and Philips commented that ballasts installed in the U.S. can operate a wide range of input voltages (*i.e.* 120 V to 277 V) and this range should be considered before adopting other international standby power limits. For example, a typical DALI ballast has a different standby mode power consumption at 120 V than at 277 V. (Philips, No. 8⁴¹ at p. 8; NEMA, No. 12 at p. 3) Philips stated that although IEC 62301 offers valuable information regarding instrumentation tolerances and uncertainty, it is unclear if it accounts for operation at this wide range of input voltages. Philips recommended that DOE develop a standby mode power test method that accounts for the wide range of input voltages. (Philips, No. 8⁴² at p. 8)

As noted above, DOE is proposing to reference the test conditions for the active mode test procedure for the standby mode test conditions in the

standby mode procedure, which include specifications regarding testing ballasts designed and marketed to operate at multiple input voltages. Under these test conditions standby mode energy consumption for ballasts able to operate at input voltages of both 120 V and 277 V must be measured at 277 V for those that are not residential or sign ballasts and at 120 V for those that are residential or sign ballasts.

Regarding the standby mode test method and measurements section, DOE proposes the following modifications: (1) Add instructions to stabilize and measure standby mode energy consumption according to section 5 of IEC 62301. DOE has tentatively determined that these proposed updates to appendix Q would have minimal impact on current requirements. DOE requests comments on these modifications and the requirement that lamps be turned on before taking standby mode measurements.

F. Proposed Amendments to 10 CFR 430.23(q)

For clarification, DOE proposes to remove paragraphs specifying the calculation of estimated annual energy consumption and estimated annual operating cost for fluorescent lamp ballasts in 10 CFR 430.23(q) as these calculations are no longer required. DOE also proposes to add a paragraph in 10 CFR 430.23(q) to calculate power factor using appendix Q. DOE has tentatively determined that these proposed updates to 10 CFR 430.23(q) provide further clarification and would not impact current requirements of the DOE test procedure. DOE requests comment on the proposal to remove calculations for estimated annual energy consumption and estimated annual operating cost that are no longer required and to add an instruction for calculating power factor in 10 CFR 430.23(q).

G. Proposed Amendments to 10 CFR 429.26

DOE proposes to require reporting average total lamp arc power in certification reports for fluorescent lamp ballasts. Average total lamp arc power, a value that is already determined in appendix Q, is necessary to determine the required minimum BLE for a fluorescent lamp ballast model. Manufacturers are already reporting average total lamp arc power when certifying basic models, thus, DOE does

not expect any changes in burden. DOE also proposes to require that average total lamp arc power be rounded to the nearest tenth of a watt. DOE proposes to specify that the represented value of average total lamp arc power must be equal to the mean of the sample. Finally, DOE proposes to remove "annual energy operating costs" in § 429.26(a)(2)(i) as this value is no longer required. DOE has tentatively determined that these proposed updates to 10 CFR 429.26 provide further clarification and would not impact current requirements of the DOE test procedure.

H. Compliance Dates and Waivers

EPCA prescribes that all representations of energy efficiency and energy use, including those made on marketing materials and product labels, must be made in accordance with an amended test procedure, beginning 180 days after publication of such a test procedure final rule in the **Federal Register**. (42 U.S.C. 6293(c)(2)) If DOE were to publish an amended test procedure EPCA provides an allowance for individual manufacturers to petition DOE for an extension of the 180-day period, of not more than an additional 180 days, if the manufacturer would experience undue hardship in meeting the deadline. (42 U.S.C. 6293(c)(3)) To receive such an extension, petitions must be filed with DOE no later than the 60th day before the end of the 180-day period and must detail how the manufacturer will experience undue hardship. (*Id.*)

I. Test Procedure Costs, Harmonization, and Other Topics

1. Test Procedure Costs and Impact

EPCA requires that test procedures proposed by DOE not be unduly burdensome to conduct. (42 U.S.C. 6293(b)(3)) In this NOPR, DOE proposes to amend the existing test procedure for fluorescent lamp ballasts by (1) updating references to industry standards; (2) clarifying the selection of reference lamps; (3) adjusting time requirements in the current stabilization procedure; and (4) updating the industry standard in the test procedure for measuring standby mode energy consumption. Additionally, DOE is proposing a second stabilization option for measuring BLE. DOE has tentatively determined that these proposed amendments to the fluorescent lamp ballast procedure would not be unduly burdensome to conduct.

DOE's analysis indicates that, if finalized, the proposal to allow the Option 2 stabilization method (see Table

⁴¹ This document was submitted to the docket of DOE's rulemaking to review energy conservation standards for fluorescent lamp ballasts (Docket No. EERE-2015-BT-STD-0006).

⁴² This document was submitted to the docket of DOE's rulemaking to review energy conservation standards for fluorescent lamp ballasts (Docket No. EERE-2015-BT-STD-0006).

III.3) it would result in a reduction of future testing. DOE has proposed an optional test procedure for measuring BE at light outputs less than full light output. Because this proposed test method is optional, it imposes no costs.

TABLE III.3—SUMMARY OF COST IMPACTS FOR FLUORESCENT LAMP BALLASTS

Category	Present value (thousands 2016\$)	Discount rate (percent)
Cost Savings:		
Reduction in Testing Costs	115.7	3
	47.7	7
Total Net Cost Impacts:		
Total Net Cost Savings	(115.7)	3
	(47.7)	7

* Incorporates costs/(savings) for the Option 2 stabilization method.

TABLE III.4—SUMMARY OF ANNUALIZED COST IMPACTS FOR FLUORESCENT LAMP BALLASTS

Category	Annualized value (2016\$)	Discount rate (percent)
Annualized Cost Savings:		
Reduction in Testing Costs	3,470	3
	3,340	7
Total Net Annualized Cost Impacts:		
Total Net Cost Savings	(3,470)	3
	(3,340)	7

* Incorporates costs/(savings) for the Option 2 stabilization method.

Further discussion of the cost impacts of the proposed test procedure amendments are presented in the following paragraphs.

The proposed amendments for taking active mode measurements to determine BLE would update the test procedure to incorporate by reference newer versions of already referenced industry standards. Based on DOE's review, these updates would not change measured values and do not add complexity to test conditions/setup or add test steps (see section III.B). DOE notes that the latest 2017 version of ANSI C82.11 adds a requirement for inrush current. Specifically, it requires that the aggregate peak inrush current amplitude and duration for each value of steady state current must be less than a set of given values. This specification does not require additional or new equipment and would be met by adjusting the current amplitude and/or duration in the existing test setup. DOE has tentatively determined that compared to total test time, the time required to meet the inrush current requirements would be de minimis.

This NOPR also proposes clarifications on how to select reference lamps to address, in particular, new products on the market (*i.e.* ballasts that can operate multiple lamp types). The current DOE test procedure already requires that ballasts be tested with reference lamps. This selection criteria would only provide clarity in how to set

up the tests and do not add extra steps or add burden.

This NOPR also proposes to remove a maximum operating time for stabilization. This proposed requirement is consistent with industry standards which do not impose a maximum stabilization time. Additionally, it proposes to change the requirement of taking measurements once per second to once per minute to establish stable operating conditions, thereby decreasing the amount of data collected. DOE does not expect either proposal to impact the costs of conducting the stabilization portion of the test procedure. The reduction in the frequency of measuring data will reduce the amount of data required to determine stabilization. However, this data is collected electronically. Therefore, there are no cost savings based on time and labor. Regarding the maximum operating time, the majority of ballasts stabilize within 20 to 45 minutes and would therefore not encounter this time limit. If ballasts do not currently stabilize within an hour, labs may choose to restart the stabilization procedure with the same unit or new unit. Therefore, there is no guaranteed increase or decrease in stabilization time.

Finally, the proposed revised test procedure for taking standby mode measurements changes the industry standard reference from ANSI C82.2 to IEC 62301 Section 5. IEC 62301 Section

5 provides more detailed instructions on how to determine the final power consumption value from power readings but the overall method of obtaining power measurements is the same and does not require different instrumentation. DOE also proposes to specify that use of reference lamps is not required when measuring standby mode power, as it has no impact on measurements. Additionally, the proposed amendments to the standby mode test procedure align the test setup and test conditions for taking active mode and standby mode measurements.

DOE has tentatively determined that the proposed amendments to DOE's test procedure for measuring BLE proposed in this NOPR will not require the purchase or use of new or additional equipment or require additional steps for testing measured values. Further, the proposed revisions are not expected to change measured values. Hence, DOE expects that manufacturers will be able to rely on data generated under the previous test procedure. While manufacturers must submit a report annually to certify a basic model's represented values, basic models do not need to be retested annually. The initial test results used to generate a certified rating for a basic model remain valid as long as the basic model has not been modified from the tested design in a way that makes it less efficient or more consumptive, which would require a change to the certified rating. If a

manufacturer has modified a basic model in a way that makes it more efficient or less consumptive, the manufacturer may choose to conduct new testing in order to make claims of the new, more efficient rating.⁴³ Additionally, manufacturers do not make representations of BLE in manufacturer literature or on product packaging. Therefore, ballasts that are not required to comply with existing energy conservation standards are likely unaffected by the proposed revisions to DOE's test procedure for measuring BLE.

In this NOPR, DOE is proposing a second stabilization option (or "Option 2") when measuring BLE. As described in section III.D.3.a, the Option 2 stabilization method would minimize the time the test lamps are off, thereby reducing the stabilization time and, consequently, the overall testing time. DOE estimates the cost savings of the Option 2 stabilization method to be \$3,574 annually. This estimate is based on a savings of 15 minutes per ballast test (due to reduced stabilization time). Based on a median hourly labor rate of \$39.17⁴⁴ per electrical engineering technician (this includes an inflation factor of 31 percent to account for the cost of providing benefits), DOE estimates the savings to be \$9.79 per ballast test, or \$39.17 per basic model, assuming four ballast tests per basic model. DOE does not expect all manufacturers to choose to use the Option 2 stabilization method. DOE believes that only four manufacturers (comprising about 18 percent of fluorescent lamp ballast manufacturers) who already possess the necessary equipment (*i.e.*, an oven for ballasts) will choose to utilize the Option 2 stabilization method. DOE estimates that these manufacturers combined offer about 365 basic models of fluorescent lamp ballasts, comprising about 50 percent of all basic models certified in DOE's Compliance Certification Database. DOE believes that new basic models of fluorescent lamp ballasts are introduced and certified to DOE about once every four years. Thus DOE estimates overall annualized industry savings due to proposing the Option 2 stabilization method to be \$3,470 at a 3 percent discount rate and \$3,340 at a 7 percent discount rate.

2. Harmonization With Industry Standards

The test procedure for fluorescent lamp ballasts at appendix Q to subpart B of part 430 incorporates by reference certain provisions of several industry standards. DOE incorporates and proposes to incorporate by reference ANSI C78.81–2016, ANSI C78.901–2016, ANSI C82.1–2015, ANSI C82.3–2016, ANSI/ANSI C82.11–2017, ANSI C82.13–2002, ANSI C82.77–2002, and IEC 60081 Amendment 6 in their entirety. DOE is proposing to incorporate by reference only certain sections of ANSI C78.375A–2014, ANSI C82.2–2016, and IEC 62301 Edition 2.0 to ensure the repeatability of the test procedure. The industry standards DOE proposes to incorporate by reference via amendments described in this NOPR are discussed in further detail in section IV.N. DOE requests comments on the benefits and burdens of the proposed updates and additions to industry standards referenced in the test procedure for fluorescent lamp ballasts.

DOE seeks comment on the degree to which the DOE test procedure should consider and be harmonized further with the most recent relevant industry standards for fluorescent lamp ballasts. DOE also requests comment on the benefits and burdens of adopting any industry/voluntary consensus-based or other appropriate test procedure, without modification.

3. Other Test Procedure Topics

In addition to the issues identified earlier in this document, DOE welcomes comment on any other aspect of the existing test procedure for fluorescent lamp ballasts not already addressed by the specific areas identified in this document. DOE particularly seeks information that would improve the representativeness of the test procedure, as well as information that would help DOE create a procedure that would limit manufacturer test burden. Comments regarding repeatability and reproducibility are also welcome.

DOE also requests information that would help DOE create procedures that would limit manufacturer test burden through streamlining or simplifying testing requirements. In particular, DOE notes that under Executive Order 13771, "Reducing Regulation and Controlling Regulatory Costs," Executive Branch agencies such as DOE must manage the costs associated with the imposition of expenditures required to comply with Federal regulations. See 82 FR 9339 (Feb. 3, 2017). Consistent with that Executive Order, DOE encourages the public to provide input on measures

DOE could take to lower the cost of its regulations applicable to fluorescent lamp ballasts consistent with the requirements of EPCA. DOE also recently published an RFI on the emerging smart technology appliance and equipment market. 83 FR 46886 (Sept. 17, 2018). In that RFI, DOE sought information to better understand market trends and issues in the emerging market for appliances and commercial equipment that incorporate smart technology. DOE's intent in issuing the RFI was to ensure that DOE did not inadvertently impede such innovation in fulfilling its statutory obligations in setting efficiency standards for covered products and equipment. In this NOPR, DOE seeks comment on the same issues presented in the RFI as they may be applicable to fluorescent lamp ballasts.

IV. Procedural Issues and Regulatory Review

A. Review Under Executive Order 12866

The Office of Management and Budget (OMB) has determined that this test procedure rulemaking does not constitute a "significant regulatory actions" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, 58 FR 51735 (Oct. 4, 1993). Accordingly, this action was not subject to review under the Executive Order by the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget.

B. Review Under Executive Orders 13771 and 13777

On January 30, 2017, the President issued Executive Order 13771, "Reducing Regulation and Controlling Regulatory Costs." That Order stated the policy of the executive branch is to be prudent and financially responsible in the expenditure of funds, from both public and private sources. The Order stated it is essential to manage the costs associated with the governmental imposition of private expenditures required to comply with Federal regulations. This rulemaking is expected to be an E.O. 13771 deregulatory action because it has total costs less than zero.

Additionally, on February 24, 2017, the President issued Executive Order 13777, "Enforcing the Regulatory Reform Agenda." The Order required the head of each agency designate an agency official as its Regulatory Reform Officer (RRO). Each RRO oversees the implementation of regulatory reform initiatives and policies to ensure that agencies effectively carry out regulatory reforms, consistent with applicable law. Further, E.O. 13777 requires the establishment of a regulatory task force

⁴³ See guidance issued by DOE at <https://www.regulations.gov/document?D=EERE-2017-BT-TP-0005-0001>.

⁴⁴ Bureau of Labor Statistics, Occupational Employment Statistics, available at: <https://www.bls.gov/oes/current/oes173023.htm>.

at each agency. The regulatory task force is required to make recommendations to the agency head regarding the repeal, replacement, or modification of existing regulations, consistent with applicable law. At a minimum, each regulatory reform task force must attempt to identify regulations that:

- (i) Eliminate jobs, or inhibit job creation;
- (ii) Are outdated, unnecessary, or ineffective;
- (iii) Impose costs that exceed benefits;
- (iv) Create a serious inconsistency or otherwise interfere with regulatory reform initiatives and policies;
- (v) Are inconsistent with the requirements of Information Quality Act, or the guidance issued pursuant to that Act, in particular those regulations that rely in whole or in part on data, information, or methods that are not publicly available or that are insufficiently transparent to meet the standard for reproducibility; or
- (vi) Derive from or implement Executive Orders or other Presidential directives that have been subsequently rescinded or substantially modified.

DOE initially concludes that this rulemaking is consistent with the directives set forth in these executive orders. The proposed rule would yield annualized cost savings of approximately \$3,340 (2016\$), assuming a 7 percent discount rate, and \$3,470 (2016\$), assuming a 3 percent discount rate. Therefore, if finalized as proposed, this rule is expected to be an Executive Order 13771 deregulatory action.

C. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis (IRFA) for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by Executive Order 13272, “Proper Consideration of Small Entities in Agency Rulemaking,” 67 FR 53461 (August 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the DOE rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel’s website: <http://energy.gov/gc/office-general-counsel>.

DOE reviewed this proposed rule to amend the test procedure for fluorescent lamp ballasts under the provisions of the Regulatory Flexibility Act and the

procedures and policies published on February 19, 2003. DOE certifies that the proposed rule, if adopted, would not have significant economic impact on a substantial number of small entities. The factual basis of this certification is set forth in the following paragraphs.

The Small Business Administration (SBA) considers a business entity to be a small business, if, together, with its affiliates, it employs less than a threshold number of workers specified in 13 CFR part 121. These size standards and codes established by the North American Industry Classification System (NAICS) and are available at <https://www.sba.gov/document/support-table-size-standards>. Fluorescent lamp ballast manufacturing is classified under NAICS 335311, “Power, Distribution, and Specialty Transformer Manufacturing.” The SBA sets a threshold of 750 employees or fewer for an entity to be considered as a small business for this category.

To estimate the number of companies that could be small businesses that manufacture these ballasts, DOE conducted a market survey using publicly available information. DOE’s research involved reviewing information provided by trade associations (e.g., the National Electrical Manufacturers’ Association), information from individual company websites, market research tools (*i.e.*, Hoover’s reports) and DOE’s Certification Compliance Database. DOE screened out companies that do not meet the definition of a “small business” or are completely foreign owned and operated. DOE identified no small businesses that manufacture fluorescent lamp ballasts in the United States. DOE requests comments on its tentative determination that there are no small businesses that manufacture fluorescent lamp ballasts in the United States.

Because DOE identified no small businesses that manufacture fluorescent lamp ballasts in the United States and the proposed amendments to DOE’s test procedure for measuring BLE proposed in this NOPR will not require the purchase or use of new or additional equipment or require additional steps for testing measured values, DOE tentatively concludes that the impacts of the test procedure amendments proposed in this NOPR would not have a “significant economic impact on a substantial number of small entities,” and that the preparation of an IRFA is not warranted. DOE will transmit the certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the Small Business

Administration for review under 5 U.S.C. 605(b).

D. Review Under the Paperwork Reduction Act of 1995

Manufacturers of fluorescent lamp ballasts must certify to DOE that their products comply with any applicable energy conservation standards. To certify compliance, manufacturers must first obtain test data for their products according to the DOE test procedures, including any amendments adopted for those test procedures. DOE has established regulations for the certification and recordkeeping requirements for all covered consumer products and commercial equipment, including fluorescent lamp ballasts. (See generally 10 CFR part 429.) The collection-of-information requirement for the certification and recordkeeping is subject to review and approval by OMB under the Paperwork Reduction Act (PRA). This requirement has been approved by OMB under OMB control number 1910–1400. Public reporting burden for the certification is estimated to average 35 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

E. Review Under the National Environmental Policy Act of 1969

In this proposed rule, DOE proposes test procedure amendments that it expects will be used to make certifications and representations of certain quantities for fluorescent lamp ballasts. DOE is analyzing this proposed test procedure in accordance with the National Environmental Policy Act (NEPA) and DOE’s NEPA implementing regulations (10 CFR part 1021). DOE’s regulations include a categorical exclusion for rulemakings interpreting or amending an existing rule or regulation that does not change the environmental effect of the rule or regulation being amended. 10 CFR part 1021, subpart D, appendix A5. DOE anticipates that this rulemaking qualifies for categorical exclusion A5 because it is an interpretive rulemaking that does not change the environmental effect of the rule and otherwise meets the requirements for application of a categorical exclusion. See 10 CFR

1021.410. DOE will complete its NEPA review before issuing the final rule.

F. Review Under Executive Order 13132

Executive Order 13132, “Federalism,” 64 FR 43255 (August 4, 1999) imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. The Executive Order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive Order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735. DOE has examined this proposed rule and has determined that it 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. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the products that are the subject of this proposed rule. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. (42 U.S.C. 6297(d)) No further action is required by Executive Order 13132.

G. Review Under Executive Order 12988

Regarding the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, “Civil Justice Reform,” 61 FR 4729 (Feb. 7, 1996), imposes on Federal agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity, (2) write regulations to minimize litigation, (3) provide a clear legal standard for affected conduct rather than a general standard, and (4) promote simplification and burden reduction. Section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation (1) clearly specifies the preemptive effect, if any, (2) clearly specifies any effect on existing Federal law or regulation, (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction, (4) specifies the

retroactive effect, if any, (5) adequately defines key terms, and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in sections 3(a) and 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, the proposed rule meets the relevant standards of Executive Order 12988.

H. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a proposed regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of \$100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a proposed “significant intergovernmental mandate,” and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect small governments. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820; also available at <http://energy.gov/gc/office-general-counsel>. DOE examined this proposed rule according to UMRA and its statement of policy and determined that the rule contains neither an intergovernmental mandate, nor a mandate that may result in the expenditure of \$100 million or more in any year, so these requirements do not apply.

I. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations

Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. This rule would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

J. Review Under Executive Order 12630

DOE has determined, under Executive Order 12630, “Governmental Actions and Interference with Constitutionally Protected Property Rights” 53 FR 8859 (March 18, 1988), that this regulation would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

K. Review Under Treasury and General Government Appropriations Act, 2001

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516 note) provides for agencies to review most disseminations of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB. OMB’s guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE’s guidelines were published at 67 FR 62446 (Oct. 7, 2002). DOE has reviewed this proposed rule under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

L. Review Under Executive Order 13211

Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,” 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OMB, a Statement of Energy Effects for any proposed significant energy action. A “significant energy action” is defined as any action by an agency that promulgated or is expected to lead to promulgation of a final rule, and that (1) is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (3) is designated by the Administrator of OIRA as a significant energy action. For any proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

The proposed regulatory action to amend the test procedure for measuring the energy efficiency of fluorescent lamp ballasts is not a significant regulatory action under Executive Order 12866. Moreover, it would not have a significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as a significant energy action by the Administrator of OIRA. Therefore, it is not a significant energy action, and, accordingly, DOE has not prepared a Statement of Energy Effects.

M. Review Under Section 32 of the Federal Energy Administration Act of 1974

Under section 301 of the Department of Energy Organization Act (Pub. L. 95–91; 42 U.S.C. 7101), DOE must comply with section 32 of the Federal Energy Administration Act of 1974, as amended by the Federal Energy Administration Authorization Act of 1977. (15 U.S.C. 788; FEAA) Section 32 essentially provides in relevant part that, where a proposed rule authorizes or requires use of commercial standards, the notice of proposed rulemaking must inform the public of the use and background of such standards. In addition, section 32(c) requires DOE to consult with the Attorney General and the Chairman of the Federal Trade Commission (FTC) concerning the impact of the commercial or industry standards on competition.

The proposed modifications to the test procedure for fluorescent lamp ballasts adopted in this final rule incorporates testing methods contained in certain sections of the following commercial standards:

- (1) ANSI Standard C78.901, “American National Standard for Electric Lamps—Single-Based Fluorescent Lamps—Dimensional and Electrical Characteristics,” 2016;
- (2) ANSI C78.81–2016, “American National Standard for Electric Lamps—Double-Capped Fluorescent Lamps—Dimensional and Electrical Characteristics,” 2016;
- (3) ANSI C78.375A, “American National Standard for Electric Lamps—Fluorescent Lamps—Guide for Electrical Measures,” 2014;
- (4) ANSI ANSLG Standard C82.11, “American National Standard for Lamp Ballasts—High Frequency Fluorescent Lamp Ballasts—Supplements,” 2017;
- (5) ANSI Standard C82.77, “American National Standard for Lighting Equipment—Harmonic Emission Limits—Related Power Quality Requirements for Lighting Equipment,” 2002;
- (6) ANSI Standard C82.1, “American National Standard for Lamp Ballasts—

Line Frequency Fluorescent Lamp Ballast,” 2015;

(7) ANSI Standard C82.2, “American National Standard for Lamp Ballasts—Method of Measurement of Fluorescent Lamp Ballasts,” 2016;

(8) IEC Standard 60081, “Double Capped Fluorescent Lamps—Performance specifications (Amendment 6, Edition 5.0, August 2017),” 2017; and

(9) IEC Standard 62301, “Household electrical appliances—Measurement of standby power (Edition 2.0, January 2011),” 2011.

DOE has evaluated these standards and is unable to conclude whether they fully comply with the requirements of section 32(b) of the FEAA (*i.e.*, whether it was developed in a manner that fully provides for public participation, comment, and review.) DOE will consult with both the Attorney General and the Chairman of the FTC concerning the impact of these test procedures on competition, prior to prescribing a final rule.

N. Description of Materials Incorporated by Reference

In this NOPR, DOE proposes to incorporate by reference the test standard published by ANSI, titled “American National Standard for Electric Lamps—Double-Capped Fluorescent Lamps—Dimensional and Electrical Characteristics,” ANSI Standard C78.81–2016. ANSI C78.81–2016 is an industry accepted test standard that describes the physical and electrical characteristics of double-capped fluorescent lamps. The test procedure proposed in this NOPR references ANSI C78.81–2016 for characteristics of reference lamps that must be used when testing fluorescent lamp ballasts. ANSI C78.81–2016 is readily available on ANSI’s website at <http://webstore.ansi.org/>.

In this NOPR, DOE proposes to incorporate by reference certain sections of the test standard published by ANSI, titled “American National Standard for Electric Lamps—Fluorescent Lamps—Guide for Electrical Measures,” ANSI Standard C78.375A–2014. ANSI C78.375A–2014 is an industry accepted test standard that describes procedures for measuring the electrical characteristics of fluorescent lamps. The test procedure proposed in this NOPR references sections of ANSI C78.375A–2014 for testing performance of fluorescent lamp ballasts. ANSI C78.375A–2014 is readily available on ANSI’s website at <http://webstore.ansi.org/>.

In this NOPR, DOE proposes to incorporate by reference the test

standard published by ANSI, titled “American National Standard for Electric Lamps—Single-Based Fluorescent Lamps—Dimensional and Electrical Characteristics,” ANSI Standard C78.901–2016. ANSI C78.901–2016 is an industry accepted test standard that describes physical and electrical characteristics of single-based fluorescent lamps. The test procedure proposed in this NOPR references ANSI C78.901–2016 for characteristics of reference lamps that must be used when testing fluorescent lamp ballasts. ANSI C78.901–2016 is readily available on ANSI’s website at <http://webstore.ansi.org/>.

In this NOPR, DOE proposes to incorporate by reference the test standard published by ANSI, titled “American National Standard for Lamp Ballasts—Line Frequency Fluorescent Lamp Ballast,” ANSI Standard C82.1–2004 (R2008)(R2015). ANSI C82.1–2004 (R2008)(R2015) (also referred to in this NOPR as ANSI C82.1–2015) is an industry accepted test standard that describes characteristics and measurements of line frequency fluorescent lamp ballasts. The test procedure proposed in this NOPR references ANSI C82.1–2004 (R2008)(R2015) for testing performance of fluorescent lamp ballasts. ANSI C82.1–2004 (R2008)(R2015) is readily available on ANSI’s website at <http://webstore.ansi.org/>.

In this NOPR, DOE proposes to incorporate by reference sections of the test standard published by ANSI, titled “American National Standard for Lamp Ballasts—Method of Measurement of Fluorescent Lamp Ballasts,” ANSI Standard C82.2–2002 (R2016). ANSI C82.2–2002 (R2016) (also referred to in this NOPR as ANSI C82.2–2016) is an industry accepted standard for testing line frequency fluorescent lamp ballasts. The 2016 version is a reaffirmation of the 2002 version. ANSI C82.2–2002 (R2016) is readily available on ANSI’s website at <http://webstore.ansi.org/>.

In this NOPR, DOE proposes to incorporate by reference the test standard published by ANSI, titled “American National Standard for Lamp Ballasts—Reference Ballasts for Fluorescent Lamps,” ANSI Standard C82.3–2016. ANSI C82.3–2016 (also referred to in this NOPR as ANSI C82.3) is an industry accepted standard that describes characteristics and requirements of fluorescent lamp reference ballasts. The test procedure proposed in this NOPR references ANSI C82.3–2016 for determining a reference fluorescent lamp to use when testing the performance of fluorescent lamp ballasts. ANSI C82.3–2016 is readily

available on ANSI's website at <http://webstore.ansi.org/>.

In this NOPR, DOE proposes to incorporate by reference the test standard published by ANSI, titled "American National Standard for Lamp Ballasts—High Frequency Fluorescent Lamp Ballasts—Supplements," ANSI ANSLG Standard C82.11–2017. ANSI ANSLG C82.11–2017 is an industry accepted test standard that describes characteristics and measurements of high frequency fluorescent lamp ballasts. The test procedure proposed in this NOPR references ANSI ANSLG C82.11–2017 for testing performance of fluorescent lamp ballasts. ANSI ANSLG C82.11–2017 is readily available on ANSI's website at <http://webstore.ansi.org/>.

In this NOPR, DOE proposes to incorporate by reference the test standard published by ANSI, titled "American National Standard Harmonic Emission Limits—Related Power Quality Requirements for Lighting Equipment," ANSI Standard C82.77–2002. ANSI C82.77–2002 is an industry accepted standard that describes maximum harmonic emission limits for lighting equipment. ANSI C82.11–2017, proposed for reference in this test procedure for testing high frequency fluorescent lamp ballasts, references ANSI C82.77–2002 to determine the maximum harmonic emission limits of the input current to the ballast. ANSI C82.77–2002 is readily available on ANSI's website at <http://webstore.ansi.org/>.

In this NOPR, DOE proposes to incorporate by reference the test standard published by IEC, titled, "Double Capped Fluorescent Lamps—Performance specifications (Amendment 6, Edition 5.0, July 2013)," IEC Standard 60081 Amendment 6. IEC Standard 60081 Amendment 6 is an industry accepted test standard that describes physical and electrical characteristics of double-capped fluorescent lamps. The test procedure proposed in this NOPR references IEC Standard 60081 Amendment 6 for characteristics of reference lamps that must be used when testing fluorescent lamp ballasts. IEC Standard 60081 Amendment 6 is readily available on IEC's website at <https://webstore.iec.ch/home>.

In this NOPR, DOE proposes to incorporate by reference the test standard published by IEC, titled "Household electrical appliances—Measurement of standby power (Edition 2.0, January 2011)," IEC Standard 62301 (Edition 2.0). IEC Standard 62301 (Edition 2.0) is an industry accepted test standard that describes measurements of

electrical power consumption in standby mode, off mode, and network mode. The test procedure proposed in this NOPR references sections of IEC Standard 62301 (Edition 2.0) for testing standby mode power consumption of fluorescent lamp ballasts. IEC Standard 62301 (Edition 2.0) is readily available on IEC's website at <https://webstore.iec.ch/home>.

V. Public Participation

A. Submission of Comments

DOE will accept comments, data, and information regarding this proposed rule no later than the date provided in the **DATES** section at the beginning of this proposed rule. Interested parties may submit comments using any of the methods described in the **ADDRESSES** section at the beginning of this NOPR.

Submitting comments via <http://www.regulations.gov>. The <http://www.regulations.gov> web page will require you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. Persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to <http://www.regulations.gov> information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (CBI)). Comments submitted through <http://www.regulations.gov> cannot be claimed as CBI. Comments received through the website will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section.

DOE processes submissions made through <http://www.regulations.gov> before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that <http://www.regulations.gov> provides after you have successfully uploaded your comment.

Submitting comments via email, hand delivery, or postal mail. Comments and documents submitted via email, hand delivery, or mail also will be posted to <http://www.regulations.gov>. If you do not want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information on a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. If you submit via mail or hand delivery, please provide all items on a CD, if feasible. It is not necessary to submit printed copies. No facsimiles (faxes) will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, written in English and free of any defects or viruses. Documents should not contain special characters or any form of encryption and, if possible, they should carry the electronic signature of the author.

Campaign form letters. Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

Confidential Business Information. According to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email, postal mail, or hand delivery two well-marked copies: One copy of the document marked confidential including all the information believed to be confidential, and one copy of the document marked non-confidential with the information

believed to be confidential deleted. Submit these documents via email or on a CD, if feasible. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

Factors of interest to DOE when evaluating requests to treat submitted information as confidential include (1) a description of the items, (2) whether and why such items are customarily treated as confidential within the industry, (3) whether the information is generally known by or available from other sources, (4) whether the information has previously been made available to others without obligation concerning its confidentiality, (5) an explanation of the competitive injury to the submitting person which would result from public disclosure, (6) when such information might lose its confidential character due to the passage of time, and (7) why disclosure of the information would be contrary to the public interest.

It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

B. Issues on Which DOE Seeks Comment

Although DOE welcomes comments on any aspect of this proposal, DOE is particularly interested in receiving comments and views of interested parties concerning the following issues:

(1) DOE requests comments on its proposal to incorporate by reference sections 3, 4, and 7 of the 2016 version of ANSI C82.2, the 2017 version of ANSI C82.11, the 2002 version of ANSI C82.77, the 2015 version of ANSI C82.1, the 2016 version of ANSI C82.3, sections 4 and 9 of the 2014 version of ANSI C78.375A, the 2016 version of ANSI C78.81, the 2016 version of ANSI C78.901, Amendment 6 of EIC 60081, and section 5 of Edition 2.0 of IEC 62301 in appendix Q.

(2) DOE requests comments on its proposal to remove definitions that will no longer be used: AC control signal, cathode heating, DC control signal, F34T12 lamp, F96T12/ES lamp, F96T12HO/ES lamp, PLC control signal, and wireless control signal.

(3) DOE requests comments on the proposed guidance for selecting the appropriate base type and diameter for reference lamps operated by ballasts that can operate lamps with multiple base types.

(4) DOE requests comments on its proposal to change the sampling frequency from one second to one

minute for determining stabilization using the Option 1 stabilization method, including whether this change would impact the overall cost of the test procedure.

(5) DOE requests comments on its proposal to remove the requirement that fluorescent lamp ballasts cannot be operated for longer than one hour to determine stable operating conditions, including whether this change would impact the overall cost of the test procedure.

(6) DOE requests comments on its proposal to allow the Option 2 stabilization method for measuring the BLE of ballasts at full light output.

(7) DOE requests comments on its proposal to provide a method for measuring ballast efficiency at light outputs less than the full light output, specifically light outputs less than full light output and greater than or equal to 50 percent of full light output.

(8) DOE requests comments on its proposal to replace the existing ANSI C82.2 references to sections 3.2.1, 4, and 7 with only section 7 of ANSI C82.2 for measuring input power, voltage, and current, disregarding Figure 1 and Figure 3.

(9) DOE seeks comments on its proposal to incorporate IEC 62301 by reference and reference section 5 of IEC 62301 for stabilization and standby mode energy consumption measurements.

(10) DOE requests comments on its proposal to reference the active mode test procedure for instrumentation, test conditions and connection of lamps (with the exception of reference lamp specifications) in the standby mode test procedure.

(11) DOE requests comments on its proposal to require that lamps be turned on before taking standby mode measurements.

(12) DOE requests comment on the proposal to remove calculations for estimated annual energy consumption and estimated annual operating cost that will no longer be used and to include a description of power factor calculation in 10 CFR 430.23(q).

(13) DOE requests comments, data, and information regarding the cost of taking measurements of BE at reduced light outputs, the cost of making BE representations, and what percent of industry may choose to make representations of this metric.

(14) DOE requests comments on the benefits and burdens of the proposed updates and additions to industry standards referenced in the test procedure for fluorescent lamp ballasts.

(15) DOE requests comments on its tentative determination that there are no

small businesses that manufacture fluorescent lamp ballasts in the United States.

VI. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this proposed rule.

List of Subjects

10 CFR Part 429

Confidential business information, Energy conservation, Household appliances, Imports, Incorporation by reference, Reporting and recordkeeping requirements.

10 CFR Part 430

Administrative practice and procedure, Confidential business information, Energy conservation, Household appliances, Imports, Incorporation by reference, Intergovernmental relations, Small businesses.

Signed in Washington, DC, on March 6, 2019.

Steven Chalk,

Acting Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.

For the reasons stated in the preamble, DOE is proposing to amend parts 429 and 430 of chapter II of title 10, Code of Federal Regulations as set forth below:

PART 429—CERTIFICATION, COMPLIANCE, AND ENFORCEMENT FOR CONSUMER PRODUCTS AND COMMERCIAL AND INDUSTRIAL EQUIPMENT

■ 1. The authority citation for part 429 continues to read as follows:

Authority: 42 U.S.C. 6291–6317; 28 U.S.C. 2461 note.

■ 3. Section 429.26 is amended by:

■ a. Revising the introductory text of paragraphs (a)(2)(i) and (ii);

■ b. Adding paragraph (a)(2)(iii); and

■ c. Revising paragraphs (b)(2) and (c).

The revisions and additions read as follows:

§ 429.26 Fluorescent lamp ballasts.

(a) * * *

(2) * * *

(i) Any represented value of energy consumption or other measure of energy consumption of a basic model for which consumers would favor lower values shall be greater than or equal to the higher of:

* * * * *

(ii) Any represented value of the ballast luminous efficiency, ballast efficiency, power factor, or other

measure of the energy efficiency or energy consumption of a basic model for which consumers would favor a higher value must be less than or equal to the lower of:

* * * * *

(iii) The represented value of average total lamp arc power must equal the mean of the sample, where:

$$\bar{x} = \frac{1}{n} \sum_{i=1}^n x_i$$

Where:

$\bar{x}$ is the sample mean;

n is the number of units in the sample; and

x_i is the i^{th} unit.

(b) * * *

(2) Pursuant to § 429.12(b)(13), a certification report must include the following public product-specific information: The ballast luminous efficiency, the average total lamp arc power, the power factor, the number of lamps operated by the ballast, and the type of lamps operated by the ballast (*i.e.*, wattage, base, shape, diameter, and length).

(c) *Rounding requirements.* (1) Round ballast luminous efficiency to the nearest thousandths place.

(2) Round power factor to the nearest hundredths place.

(3) Round average total lamp arc power to the nearest tenth of a watt.

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

■ 4. The authority citation for part 430 continues to read as follows:

Authority: 42 U.S.C. 6291–6309; 28 U.S.C. 2461 note.

■ 5. Section 430.2 is amended by revising the definition of “Designed and marketed” to read as follows:

§ 430.2 Definitions.

* * * * *

Designed and marketed means that the intended application of the lamp or ballast is clearly stated in all publicly available documents (*e.g.*, product literature, catalogs, and packaging labels). This definition is applicable to terms related to the following covered lighting products: Fluorescent lamp ballasts; fluorescent lamps; general service fluorescent lamps; general service incandescent lamps; general service lamps; incandescent lamps; incandescent reflector lamps; medium base compact fluorescent lamps; and specialty application mercury vapor lamp ballasts.

* * * * *

■ 6. Section 430.3 is amended by:

■ a. Removing “§ 430.2, § 430.32, appendix Q,” and add in its place “§§ 430.2 and 430.32” in paragraph (e)(5);

■ b. Removing the words “appendix Q and” in paragraph (e)(6);

■ c. Removing the words “, appendix Q,” in paragraph (e)(7);

■ d. Redesignating paragraphs (e)(17) through (21) as (e)(22) through (26);

■ e. Redesignating paragraphs (e)(6) through (16) as follows:

Old paragraph	New paragraph
(e)(6)	(e)(7)
(e)(7)	(e)(9)
(e)(8)	(e)(10)
(e)(9)	(e)(12)
(e)(10)	(e)(13)
(e)(11)	(e)(14)
(e)(12)	(e)(15)
(e)(13)	(e)(16)
(e)(14)	(e)(17)
(e)(15)	(e)(19)
(e)(16)	(e)(20)

■ f. Adding new paragraphs (e)(6), (8), and (11);

■ g. Revising newly redesignated paragraphs (e)(15) and (16);

■ h. Removing the words “appendix Q and” in newly redesignated paragraph (e)(17);

■ i. Adding new paragraph (e)(18);

■ j. Revising newly redesignated paragraph (e)(19);

■ k. Adding new paragraph (e)(21);

■ l. Removing the words “Amendment 4, Edition 5.0, 2010–02” in paragraph (p)(2) and adding in its place the words “Amendment 6, Edition 5.0, August 2017”;

■ m. Removing the words “appendices C1, D1, D2, G, H, I, J2, N, O, P, X, X1, Y, Z, BB, and CC to subpart B” in paragraph (p)(6) and adding in its place the words “appendices C1, D1, D2, G, H, I, J2, N, O, P, Q, X, X1, Y, Z, BB, and CC to subpart B.”

The revisions and additions read as follows:

§ 430.3 Materials incorporated by reference.

* * * * *

(e) * * *

(6) ANSI C78.81–2016, Revision of ANSI ANSLG C78.81–2010, (“ANSI C78.81–2016”), American National Standard for Electric Lamps—Double-Capped Fluorescent Lamps—Dimensional and Electrical Characteristics, approved June 29, 2016, IBR approved for appendix Q to subpart B of this part.

* * * * *

(8) ANSI C78.375A–2014, Revision of ANSI C78.375–1997, (“ANSI C78.375A”), American National

Standard for Electric Lamps—Fluorescent Lamps—Guide for Electrical Measures, first edition, approved August 28, 2014, IBR approved for appendix Q to subpart B of this part.

* * * * *

(11) ANSI C78.901–2016, American National Standard for Electric Lamps—Single-Based Fluorescent Lamps—Dimensional and Electrical Characteristics, ANSI approved August 23, 2016, IBR approved for appendix Q to subpart B of this part.

* * * * *

(15) ANSI C82.1–2004 (R2008, R2015), Revision of ANSI C82.1–2004, (“ANSI C82.1”), American National Standard for Lamp Ballasts—Line Frequency Fluorescent Lamp Ballast, approved November 20, 2015, IBR approved for appendix Q to subpart B of this part.

(16) ANSI C82.2–2016, Revision of ANSI C82.2–2002, (“ANSI C82.2”), American National Standard for Lamp Ballasts—Method of Measurement of Fluorescent Ballasts, approved July 12, 2016, IBR approved for appendix Q to subpart B of this part.

* * * * *

(18) ANSI C82.3–2016, Revision of ANSI C82.3–2002, (“ANSI C82.3–2016”), American National Standard for Reference Ballasts for Fluorescent Lamps, approved April 8, 2016, IBR approved for appendix Q to subpart B of this part.

(19) ANSI ANSLG C82.11–2017, Revision of ANSI C82.11–2011, (“ANSI C82.11”), American National Standard for Lamp Ballasts—High-frequency Fluorescent Lamp Ballasts—Supplements, approved January 23, 2017, IBR approved for appendix Q to subpart B of this part.

* * * * *

(21) ANSI C82.77, (“ANSI C82.77”) American National Standard for Harmonic Emission Limits—Related Power Quality Requirements for Lighting Equipment, approved January 17, 2002, IBR approved for appendix Q to subpart B of this part.

* * * * *

■ 7. Section 430.23(q) is revised to read as follows:

§ 430.23 Test procedures for the measurement of energy and water consumption.

* * * * *

(q) *Fluorescent lamp ballasts.* (1) Calculate ballast luminous efficiency (BLE) and ballast efficiency (BE) using appendix Q to this subpart.

(2) Calculate power factor using appendix Q to this subpart.

* * * * *

■ 8. Appendix Q to subpart B of part 430 is revised to read as follows:

Appendix Q to Subpart B of Part 430—Uniform Test Method for Measuring the Energy Consumption of Fluorescent Lamp Ballasts

Note: After [date 30 days after date of publication of the final rule in the **Federal Register**] and prior to [date 180 days after date of publication of the final rule in the **Federal Register**] any representations with respect to energy use or efficiency of fluorescent lamp ballasts must be in accordance with the results of testing pursuant to this appendix or the test procedures as they appeared in appendix Q to this subpart or this part revised as of January 1, 2018. On or after [date 180 days after date of publication of the final rule in the **Federal Register**], any representations, including certifications of compliance for ballasts subject to any energy conservation standard, made with respect to the energy use or efficiency of fluorescent lamp ballasts must be made in accordance with the results of testing pursuant to this appendix.

Definitions

1.1. *Average total lamp arc power* means the sample mean of the total lamp arc powers of the ballast units tested.

1.2. *Dimming ballast* means a ballast that is designed and marketed to vary its output and that can achieve an output less than or equal to 50 percent of its maximum electrical output.

1.3. *High frequency ballast* is as defined in ANSI C82.13 (incorporated by reference, see § 430.3).

1.4. *Instant-start* is the starting method used in instant-start systems as defined in ANSI C82.13 (incorporated by reference, see § 430.3), as typically indicated on publicly available documents of a fluorescent lamp ballast (e.g., product literature, catalogs, and packaging labels).

1.5. *Low-frequency ballast* is a fluorescent lamp ballast that operates at a supply frequency of 50 to 60 Hz and operates the lamp at the same frequency as the supply.

1.6. *Programmed-start* is the starting method used in a programmed-start type system as defined in ANSI C82.13 (incorporated by reference, see § 430.3), as typically indicated on publicly available documents of a fluorescent lamp ballast (e.g., product literature, catalogs, and packaging labels).

1.7. *Rapid-start* is the starting method used in rapid-start type systems as defined in ANSI C82.13 (incorporated by reference, see § 430.3), as typically indicated on publicly available documents of a fluorescent lamp ballast (e.g., product literature, catalogs, and packaging labels).

1.8. *Reference lamp* is a fluorescent lamp that meets the operating conditions of a reference lamp as defined by ANSI C82.13 (incorporated by reference, see § 430.3).

1.9. *Residential ballast* means a fluorescent lamp ballast that meets Federal Communications Commission (FCC) consumer limits as set forth in 47 CFR part 18 and is designed and marketed for use only in residential applications.

1.10. *RMS* is the root mean square of a varying quantity. 11. *Sign ballast* means a ballast that has an Underwriters Laboratories Inc. Type 2 rating and is designed and marketed for use only in outdoor signs.

2. Active Mode Procedure for Measuring BLE at Full Light Output

2.1. Where ANSI C82.2 (incorporated by reference, see § 430.3) references ANSI C82.1, use ANSI C82.1 (incorporated by reference, see § 430.3) for testing low-frequency ballasts and use ANSI C82.11 (incorporated by reference, see § 430.3) for testing high-frequency ballasts. In addition when applying ANSI C82.2, use the standards ANSI C78.375A, ANSI C78.81–2016, ANSI C82.1, ANSI C82.11, ANSI C82.13, ANSI C82.3–2016, ANSI C82.77, and ANSI C78.901–2016 as incorporated by reference in § 430.3. Specifications in referenced standards that are recommended, that “shall” or “should” be met, or that are not clearly mandatory, are mandatory. In cases where there is a conflict between any industry standard(s) and this appendix, the language of the test procedure in this appendix takes precedence over the industry standard(s).

2.2. Instruments

2.2.1. All instruments must meet the specifications of section 9 of ANSI C78.375A (incorporated by reference, see § 430.3).

2.2.2. *Power Analyzer.* In addition to the specifications in section 9 of ANSI C78.375A, the power analyzer must have a maximum 100 pF capacitance to ground and frequency response between 40 Hz and 1 MHz.

2.2.3. *Current Probe.* In addition to the specifications in section 9 of ANSI C78.375A, the current probe must be galvanically isolated and have frequency response between 40 Hz and 20 MHz.

2.3. Test Setup

2.3.1. Connect the ballast to a main power source and to the fluorescent lamp(s) as specified in this section. Ensure the ballast is connected to fluorescent lamp(s) according to any manufacturer's wiring instructions on or sold with each unit (including those provided online). To test a low-frequency ballast, follow ANSI C82.1 (incorporated by reference, see § 430.3) but disregard section 5.3 of ANSI C82.1. To test a high-frequency ballast, follow ANSI C82.11 (incorporated by reference, see § 430.3) but disregard sections 5.3.1, 5.13, and Annex D of ANSI C82.11.

2.3.2. In the test setup, all wires used in the apparatus, including any wires from the ballast to the lamps and from the lamps to the measuring devices, must meet the following specifications:

2.3.2.1. Use the wires provided by the ballast manufacturer and only the minimum wire length necessary to reach both ends of each lamp. If the wire lengths supplied with the ballast are too short to reach both ends of each lamp, add the minimum additional wire length necessary to reach both ends of each lamp, using wire of the same wire gauge(s) as the wire supplied with the ballast. If no wiring is provided with the ballast, use 18 gauge or thicker wire.

2.3.2.2. Keep wires loose. Do not shorten or allow bundling of any wires. Separate all

wires from each other, and ground them to prevent parasitic capacitance.

2.3.3. Test each ballast with only one fluorescent lamp type. Select the one type of fluorescent lamp for testing as follows:

2.3.3.1. Each fluorescent lamp must meet the specifications of a reference lamp as defined by ANSI C82.13 (incorporated by reference, see § 430.3), be seasoned at least 12 hours, and be stabilized as specified in section 2.5.2.1 of this appendix. Test each reference lamp with a reference ballast that meets the criteria of ANSI C82.3–2016 (incorporated by reference, see § 430.3). For low frequency ballasts that operate:

(a) 32 W 4-foot medium bipin T8 lamps use the following reference lamp specifications: 30.8 W, arc wattage; 1.7 W, approximate cathode wattage (with 3.6 V on each cathode); 32.5 W, total wattage; 137 V, voltage; 0.265 A, current. Test the selected reference lamp with the following reference ballast specifications: 300 V, rated input voltage; 0.265 A, reference current; 910 ohms, impedance. Use the following cathode heat requirements for rapid start: 3.6 V nominal, voltage; 2.5 V min, 4.4 V max, limits during operation; 11.0 ohms +/- 0.1 ohms, dummy load resistor; 3.4 V min, 4.5 V max, voltage across dummy load.

(b) 59 W 8-foot single pin T8 lamps use the following reference lamp specifications: 60.1 W, arc wattage; 270.3 V, voltage; 0.262 A, current. Test the selected reference lamp with the following reference ballast specifications: 625 V, rated input voltage; 0.260 A, reference current; 1960 ohms, impedance.

(c) 32 W 2-foot U-shaped medium bipin T8 lamps use the following reference lamp specifications: 30.5 W, arc wattage; 1.7 W, approximate cathode wattage (with 3.6 V on each cathode); 32.2 W, total wattage; 137 V, voltage; 0.265 A, current. Test the selected reference lamp with the following reference ballast specifications: 300 V, rated input voltage; 0.265 A, reference current; 910 ohms, impedance. Use the following cathode heat requirements for rapid start: 3.6 V nominal, voltage; 2.5 V min, 4.4 V max, limits during operation; 11.0 ohms +/- 0.1 ohms, dummy load resistor; 3.4 V min, 4.5 V max, voltage across dummy load.

2.3.3.2 For any sign ballast designed and marketed to operate both T8 and T12 lamps, use a T12 lamp as specified in Table 1 of this appendix.

2.3.3.3. For any ballast designed and marketed to operate lamps of multiple base types, select lamp(s) of one base type, in the following order of decreasing preference: Medium bipin, miniature bipin, single pin, or recessed double contact.

2.3.3.4. After selecting the base type (per section 2.3.5.3 of this appendix), select the diameter of the reference lamp. Any ballast designed and marketed to operate lamps of multiple diameters, except for any sign ballast capable of operating both T8 and T12 lamps, must be tested with lamps of one of those diameters, selected in the following order of decreasing preference: T8, T5, or T12.

2.3.3.5. Connect the ballast to the maximum number of lamps (lamp type as determined by sections 2.3.3.2, 2.3.3.3, and

2.3.3.4 of this section) the ballast is designed and marketed to operate simultaneously.

For any ballast designed and marketed to operate both 4-foot medium bipin lamps and 2-foot U-shaped lamps, test with the

maximum number of 4-foot medium bipin lamp(s).

2.3.3.6. Test each ballast with the lamp type specified in Table 1 of this section that corresponds to the lamp diameter and base

type the ballast is designed and marketed to operate.

TABLE 1 TO SECTION 2.3.3.6—LAMP-AND-BALLAST PAIRINGS AND FREQUENCY ADJUSTMENT FACTORS

Ballast type	Lamp type		Frequency adjustment factor (β)	
	Lamp diameter and base	Nominal lamp wattage	Low-frequency	High-frequency
Ballasts that operate straight-shaped lamps (commonly referred to as 4-foot medium bipin lamps) with medium bipin bases and a nominal overall length of 48 inches.	T8 MBP (Data Sheet 7881–ANSI–1005–4)*.	32	0.94	1.0
	T12 MBP (Data Sheet 7881–ANSI–1006–1)*.	34	0.93	1.0
Ballasts that operate U-shaped lamps (commonly referred to as 2-foot U-shaped lamps) with medium bipin bases and a nominal overall length between 22 and 25 inches.	T8 MBP (Data Sheet 78901–ANSI–4027–2)*.	32	0.94	1.0
	T12 MBP**	34	0.93	1.0
Ballasts that operate lamps (commonly referred to as 8-foot-high output lamps) with recessed double contact bases and a nominal overall length of 96 inches.	T8 HO RDC (Data Sheet 7881–ANSI–1501–2)*.	86	0.92	1.0
	T12 HO RDC (Data Sheet 7881–ANSI–1017–1)*.	95	0.94	1.0
Ballasts that operate lamps (commonly referred to as 8-foot slimline lamps) with single pin bases and a nominal overall length of 96 inches.	T8 slimline SP (Data Sheet 7881–ANSI–1505–1)*.	59	0.95	1.0
	T12 slimline SP (Data Sheet 7881–ANSI–3006–1)*.	60	0.94	1.0
Ballasts that operate straight-shaped lamps (commonly referred to as 4-foot miniature bipin standard output lamps) with miniature bipin bases and a nominal length between 45 and 48 inches.	T5 SO Mini-BP (Data Sheet 60081–IEC–6640–7)*.	28	0.95	1.0
	T5 HO Mini-BP (Data Sheet 60081–IEC–6840–6)*.	54	0.95	1.0
Ballasts that operate straight-shaped lamps (commonly referred to as 4-foot miniature bipin high output lamps) with miniature bipin bases and a nominal length between 45 and 48 inches.	T8 HO RDC (Data Sheet 7881–ANSI–1501–2)*.	86	0.92	1.0
	T12 HO RDC (Data Sheet 7881–ANSI–1019–1)*.	† 110	0.94	1.0

MBP, Mini-BP, RDC, and SP represent medium bipin, miniature bipin, recessed double contact, and single pin, respectively.

*Data Sheet corresponds to ANSI C78.81–2016, ANSI C78.901–2016, or IEC 60081 page number (incorporated by reference, see § 430.3).

**No ANSI or IEC Data Sheet exists for 34 W T12 MBP U-shaped lamps. For ballasts designed and marketed to operate only T12 2-foot U-shaped lamps with MBP bases and a nominal overall length between 22 and 25 inches, select T12 U-shaped lamps designed and marketed as having a nominal wattage of 34 W.

†This lamp type is commonly marketed as 110 W; however, the ANSI C78.81–2016 Data Sheet (incorporated by reference, see § 430.3) lists nominal wattage of 113 W. Test with specifications for operation at 0.800 amperes (A).

2.3.4. Test Circuits

2.3.4.1. The power analyzer test setup must have exactly $n + 1$ channels where n is the maximum number of lamps (lamp type as determined by sections 2.3.5.2, 2.3.5.3, and 2.3.5.4 of this appendix) a ballast is designed and marketed to operate. Use the minimum number of power analyzers possible during testing. Synchronize all power analyzers. A system may be used to synchronize the power analyzers.

2.3.4.2. *Lamp Arc Voltage.* Attach leads from the power analyzer to each fluorescent

lamp according to Figure 1 of this section for rapid- and programmed-start ballasts, Figure 2 of this section for instant-start ballasts operating single pin (SP) lamps, and Figure 3 of this section for instant-start ballasts operating medium bipin (MBP), miniature bipin (mini-BP), or recessed double contact (RDC) lamps. The programmed- and rapid-start ballast test setup includes two 1000 ohm resistors placed in parallel with the lamp pins to create a midpoint from which to measure lamp arc voltage.

2.3.4.3. *Lamp Arc Current.* Position a current probe on each fluorescent lamp according to Figure 1 of this section for rapid- and programmed-start ballasts, Figure 2 of this section for instant-start ballasts operating SP lamps, and Figure 3 of this section for instant-start ballasts operating MBP, mini-BP, and RDC lamps.

For the lamp arc current measurement, set the full transducer ratio in the power analyzer to match the current probe to the power analyzer.

$$\text{Full Transducer Ratio} = \frac{I_{in}}{V_{out}} \times \frac{R_{in}}{R_{in} + R_s}$$

Where: I_{in} is the current through the current transducer, V_{out} is the voltage out of the transducer, R_{in} is the power analyzer

impedance, and R_s is the current probe output impedance.

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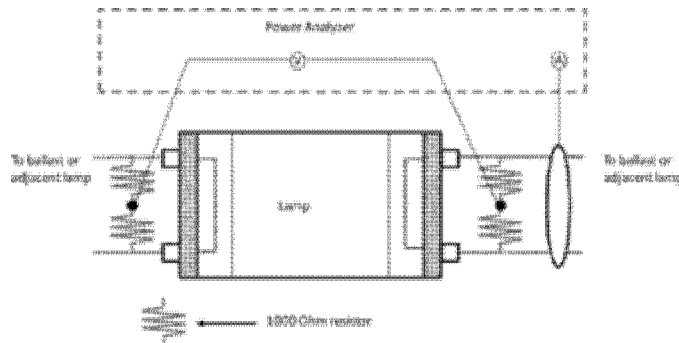


Figure 1: Programmed- and Rapid-Start Ballast Instrumentation Setup

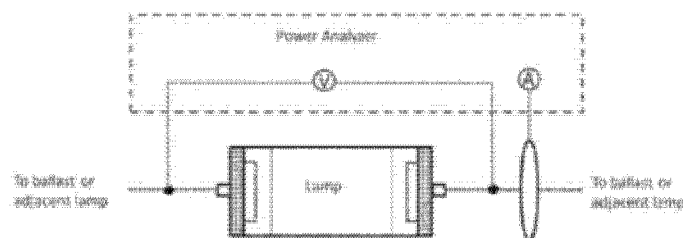


Figure 2: Instant-Start Ballasts that Operate SP Lamps Instrumentation Setup

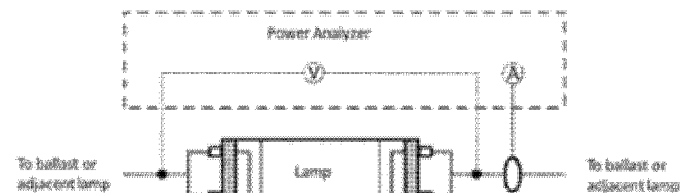


Figure 3: Instant-Start Ballasts that Operate MBP, mini-BP, and RDC Lamps Instrumentation Setup

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2.4. Test Conditions

2.4.1. Establish and maintain test conditions for testing fluorescent lamp ballasts in accordance with sections 3 and 4 of ANSI C82.2 (incorporated by reference, see § 430.3).

2.4.2. *Room Temperature and Air Circulation.* Maintain the test area at 25 ± 1 °C, with minimal air movement as specified in section 4 of ANSI C78.375A (incorporated by reference, see § 430.3).

2.4.3. *Input Voltage.* For any ballast designed and marketed for operation at only one input voltage, test at that specified voltage. For any ballast that is neither a residential ballast nor a sign ballast but is designed and marketed for operation at multiple voltages, test the ballast at $277 \text{ V} \pm 0.1\%$. For any residential ballast or sign ballast designed and marketed for operation

at multiple voltages, test the ballast at $120 \text{ V} \pm 0.1\%$.

2.5. Test Method

2.5.1. Connect the ballast to the selected fluorescent lamps (as determined in section 2.3.5 of this appendix) and to measurement instrumentation as specified in the Test Setup in section 2.3 of this appendix.

2.5.2. Determine stable operating conditions according to Option 1 or Option 2.

2.5.2.1. Option 1. Operate the ballast for at least 15 minutes before determining stable operating conditions. Determine stable operating conditions by measuring lamp arc voltage, current, and power once per minute in accordance with the setup described in section 2.3 of this appendix. The system is stable once the difference between the maximum and minimum for each value of lamp arc voltage, current, and power divided by the average value of the measurements do

not exceed one percent over a four minute moving window. Once stable operating conditions are reached, measure each of the parameters described in sections 2.5.3 through 2.5.9 of this appendix.

2.5.2.2. Option 2. Determine stable operating conditions according to steps 1 through 6 of section D.2.1 in Annex D of ANSI C82.11. Once stable operating conditions are reached, measure each of the parameters described in sections 2.5.3 through 2.5.9 of this appendix.

2.5.3. *Lamp Arc Voltage.* Measure lamp arc voltage in volts (RMS) using the setup in section 2.3.6.2 of this appendix.

2.5.4. *Lamp Arc Current.* Measure lamp arc current in amps (RMS) using the setup in section 2.3.6.3 of this appendix.

2.5.5. *Lamp Arc Power.* The power analyzer must calculate output power by using the measurements from sections 2.5.3 and 2.5.4 of this section.

2.5.6. *Input Power.* Measure the input power in watts to the ballast in accordance with section 7 of ANSI C82.2 (disregard references to Figure 1 and Figure 3).

2.5.7. *Input Voltage.* Measure the input voltage in volts (RMS) to the ballast in accordance with section 7 of ANSI C82.2 (disregard references to Figure 1 and Figure 3).

2.5.8. *Input Current.* Measure the input current in amps (RMS) to the ballast in accordance with section 7 of ANSI C82.2 (disregard references to Figure 1 and Figure 3).

2.5.9. *Lamp Operating Frequency.* Measure the frequency of the waveform delivered from the ballast to any one lamp used in the

test in accordance with the setup in section 2.3 of this appendix.

2.6. Calculations

2.6.1. Calculate ballast luminous efficiency (BLE) as follows (do not round values of total lamp arc power and input power prior to calculation):

$$\text{Ballast Luminous Efficiency} = \frac{\text{Total Lamp Arc Power}}{\text{Input Power}} \times \beta$$

Where: Total Lamp Arc Power is the sum of the lamp arc powers for all lamps operated by the ballast as measured in section 2.5.5 of this appendix, Input Power is as determined

by section 2.5.6 of this appendix, and β is equal to the frequency adjustment factor in Table 1 of this appendix.

2.6.2. Calculate Power Factor (PF) as follows (do not round values of input power, input voltage, and input current prior to calculation):

$$PF = \frac{\text{Input Power}}{\text{Input Voltage} \times \text{Input Current}}$$

Where: Input Power is measured in accordance with section 2.5.6 of this appendix, Input Voltage is measured in accordance with section 2.5.7 of this appendix, and Input Current is measured in accordance with section 2.5.8 of this appendix.

3. Active Mode Procedure for Measuring Ballast Efficiency at Light Output Levels That Are Less Than 100 Percent But Greater Than or Equal to 50 Percent of Full Light Output

3.1. Follow the Directions in Section 2.1 To Measure Ballast Efficiency

3.2. Test Setup

3.2.1. Take all measurements with instruments as specified in section 2.2 of this appendix. A multichannel power analyzer may be used as described in Annex D of ANSI C82.11 (incorporated by reference, see § 430.3).

3.2.2. Connect the ballast to a main power source and to the maximum number of lamp(s) as specified in Annex D of ANSI C82.11 and sections 2.3.2 and 2.3.3 of this appendix. Ensure the ballast is connected to fluorescent lamp(s) according to any manufacturer's wiring instructions on or sold with each unit (including those provided online). To test a low-frequency ballast, follow ANSI C82.1 but disregard section 5.3 of ANSI C82.1. To test a high-frequency ballast, follow ANSI C82.11 but disregard section 5.3.1.

3.3. Test Conditions

3.3.1. Establish and maintain test conditions in accordance with section 2.4 of this appendix.

3.4. Test Method and Measurements

3.4.1. Determine stable operating conditions according to steps 1 through 6 of section D.2.1 in Annex D of ANSI C82.11.

3.4.2. Calculate ballast efficiency according to Annex D of ANSI C82.11. Ballast efficiency is equal to the ballast output power (a quantity that includes lamp arc power, the filament power, and power provided for other features such as networking and sensors) divided by the ballast input power (a quantity defined in section 2.5.6 of this appendix).

4. Standby Mode Procedure

4.1. Measure standby mode energy consumption only for any ballast that is capable of operating in standby mode. When there is a conflict, the language of the test procedure in this appendix takes precedence over IEC 62301 (incorporated by reference; see § 430.3). Specifications in referenced standards that are not clearly mandatory are mandatory. Manufacturer's instructions, such as "instructions for use" referenced in IEC 62301 mean the manufacturer's instructions that come packaged with or appear on the unit, including on a label. It may include an online manual if specifically referenced (e.g., by date or version number) either on a label or in the packaged instructions. Instructions that appear on the unit take precedence over instructions available electronically, such as through the internet.

4.2. Test Setup

4.2.1. Take all measurements with instruments as specified in section 2.2 of this appendix. Fluorescent lamp ballasts that are designed and marketed for connection to

control devices must be tested with all commercially available compatible control devices connected in all possible configurations. For each configuration, a separate measurement of standby power must be made in accordance with section 4.4 of this appendix.

4.2.2. Connect each ballast to the maximum number of lamp(s) as specified in section 2.3 (specifications in section 2.3.3.1 are optional) of this appendix. Note: ballast operation with reference lamp(s) is not required.

4.3. Test Conditions

4.3.1. Establish and maintain test conditions in accordance with section 2.4 of this appendix.

4.4. Test Method and Measurements

4.4.1. Turn on all of the lamps at full light output.

4.4.2. Send a signal to the ballast instructing it to have zero light output using the appropriate ballast communication protocol or system for the ballast being tested.

4.4.3. Stabilize the ballast prior to measurement using one of the methods as specified in section 5 of IEC 62301.

4.4.4. Measure the standby mode energy consumption in watts using one of the methods as specified in section 5 of IEC 62301.

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