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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1218

[Document No. AMS–SC–21–0030]

Blueberry Promotion, Research, and Information Order; Continuance Referendum

AGENCY: Agricultural Marketing Service.

ACTION: Notification of referendum.

SUMMARY: This document directs that a referendum be conducted among eligible producers and importers of highbush blueberries to determine whether they favor continuance of the Agricultural Marketing Service's regulations regarding a national highbush blueberry research and promotion program.

DATES: This referendum will be conducted by express mail and electronic ballot from October 8, 2021, through October 22, 2021. To be eligible to vote, blueberry producers and importers must have produced or imported 2,000 pounds or more of highbush blueberries during the representative period of January 1 through December 31, 2020, and must currently be producers or importers of highbush blueberries subject to assessment under the Blueberry Promotion, Research and Information Order (Order). Ballots delivered to AMS via express mail or email must show proof of delivery no later than 11:59 p.m. Eastern Daylight Time (EDT) on October 22, 2021.

ADDRESSES: Copies of the Blueberry Promotion, Research and Information Order (Order) may be obtained from: Referendum Agent, Promotion and Economics Division (PED), Specialty Crops Program (SCP), Agricultural Marketing Service (AMS), U.S. Department of Agriculture (USDA), 1400 Independence Avenue SW, Room 1406–S, Stop 0244, Washington, DC 20250–0244, telephone: (202) 720–9915; or contact Jeanette Palmer at (202) 720–5976 or via electronic mail: *Jeanette.Palmer@usda.gov.*

FOR FURTHER INFORMATION CONTACT: Jeanette Palmer, Marketing Specialist, PED, SCP, AMS, USDA, 1400 Independence Avenue SW, Room 1406–S, Stop 0244, Washington, DC 20250–0244; telephone: (202) 720–5976; or electronic mail: *Jeanette.Palmer@usda.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to the Commodity Promotion, Research and Information Act of 1996 (7 U.S.C. 7411–7425) (Act), it is hereby directed that a referendum be conducted to ascertain whether continuance of the Order (7 CFR part 1218) is favored by eligible producers and importers of highbush blueberries. The Order is authorized under the Act.

The period for establishing voter eligibility for the referendum shall be the period from January 1, 2020, through December 31, 2020. Persons who produced or imported 2,000 pounds or more of highbush blueberries during the representative period, paid assessments during that period, and are currently highbush blueberry producers or importers subject to assessment under the Order are eligible to vote. Persons who received an exemption from assessments for the entire representative period are ineligible to vote. The U.S. Department of Agriculture will provide the option for electronic balloting. The referendum will be conducted by express mail and electronic ballot from October 8, 2021, through October 22, 2021. Further details will be provided in the ballot instructions.

Section 518 of the Act authorizes continuance referenda. Under § 1218.71(b) of the Order, the U.S. Department of Agriculture must conduct a referendum every 5 years to determine whether persons subject to assessment favor continuance of the Order. The last referendum was held in 2016. USDA would continue the Order if continuance is favored by a majority of the producers and importers voting in the referendum, who also represent a majority of the volume of blueberries represented in the referendum.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the referendum ballot has been approved by the Office of Management and Budget (OMB) and assigned OMB No. 0581–0093. It has been estimated that there are approximately 1,547 producers and 271 importers who will be eligible to vote in the referendum. It will take an average of 15 minutes for each voter to read the voting instructions and complete the referendum ballot.

Referendum Order

Jeanette Palmer, Marketing Specialist, and Heather Pichelman, Director, Promotion Economics Division, SCP, AMS, USDA, Stop 0244, Room 1406–S, 1400 Independence Avenue SW, Washington, DC 20250–0244, are designated as the referendum agents to conduct this referendum. The referendum procedures at 7 CFR 1218.100 through 1218.107, which were issued pursuant to the Act, shall be used to conduct the referendum.

The referendum agent will express mail or email the ballots to be cast in the referendum and voting instructions to all known, eligible highbush blueberry producers and importers prior to the first day of the voting period. Persons who produced or imported 2,000 more pounds of highbush blueberries during the representative period and are currently highbush blueberry producer or importers subject to assessment under the Order are eligible to vote. Persons who received an exemption from assessments during the entire representative period are ineligible to vote. Any eligible producer or importer who does not receive a ballot should contact the referendum agent no later than three days before the end of the voting period. Ballots delivered via express mail or email must show proof of delivery by no later than 11:59 p.m. EDT on October 22, 2021, to be counted.

List of Subjects in 7 CFR Part 1218

Administrative practice and procedure, Advertising, Blueberry promotion, Consumer information, Marketing agreements, Reporting and recordkeeping requirements.

Authority: 7 U.S.C. 7411–7425; 7 U.S.C. 7401.

Erin Morris,

Associate Administrator.

[FR Doc. 2021–15160 Filed 7–15–21; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

8 CFR Parts 212, 214, 245, and 274a

[CIS No. 2507–11; DHS Docket No USCIS–2011–0010]

RIN 1615–AA59

Classification for Victims of Severe Forms of Trafficking in Persons; Eligibility for ''T'' Nonimmigrant Status

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: Interim Final Rule; reopening of the comment period.

SUMMARY: The Department of Homeland Security (DHS) announces the reopening of the public comment period for the Interim Final Rule titled, Classification for Victims of Severe Forms of Trafficking in Persons; Eligibility for ''T'' Nonimmigrant Status. DHS published the interim final rule (IFR) on December 19, 2016 and accepted comments until February 17, 2017. To provide the public with further opportunity to comment on the IFR, and to ensure that we are fully considering all current factors, concerns and input of the parties who may be affected by this rulemaking, DHS will reopen the comment period for an additional 30 days. DHS will consider comments received during the entire public comment period in its development of a final rule.

DATES: The comment period for the interim final rule published December 19, 2016, at 81 FR 92266 is reopened. You must submit written comments and related material on or before August 16, 2021.

ADDRESSES: You may submit comments on the entirety of this rule package, to include the related information collection requirements set forth with the 2016 IFR, which is identified as DHS Docket No. USCIS- 2011–0010, through the *Federal eRulemaking Portal http://www.regulations.gov.* Follow the website instructions for submitting comments. Comments submitted in another manner, including emails or letters sent to DHS or USCIS officials, will not be considered comments on the rule and may not receive a response from DHS. Please note that DHS and USCIS cannot accept any comments that are hand delivered or couriered. In addition, USCIS cannot accept comments contained on any form of digital media storage devices, such as CDs/DVDs and USB drives. Due to COVID–19, USCIS is also not accepting mailed comments at this time. If you cannot submit your comment by using *http://www.regulations.gov,* please contact Samantha Deshommes, Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security, by telephone at 240–721–3000 for alternate instructions.

FOR FURTHER INFORMATION CONTACT: Andria Strano, Branch Chief, Humanitarian Affairs Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, DHS, 5900 Capital Gateway Drive, Camp Springs, MD 20746; telephone 240–721–3000 (this is not a toll-free number). Individuals with hearing or speech impairments may access the telephone numbers above via TTY by calling the toll-free Federal Information Relay Service at 1–877–889–5627 (TTY/TDD).

SUPPLEMENTARY INFORMATION:

I. Public Participation

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments on all aspects of this rule. DHS also invites comments that relate to the economic or federalism effects that might result from this rule. Comments that will provide the most assistance to DHS will reference a specific portion of the rule, explain the reason for any recommended change, and include data, information, or authority that support such recommended change.

Instructions: All submissions received must include the agency name and DHS Docket No. USCIS–20011–0010. Providing comments is entirely voluntary. Regardless of how comments are submitted to DHS, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov* and will include any personal information provided by commenters. Because the information submitted will be publicly available, commenters should consider limiting the amount of personal information provided in each submission. DHS may withhold information provided in comments from public viewing if it determines that such information is offensive or may affect the privacy of an individual. For additional information, please read the Privacy Act notice available through the link in the footer of *http://www.regulations.gov.*

Docket: For access to the docket, go to *http://www.regulations.gov* and enter this rulemaking's eDocket number USCIS 2011–0010.

II. Background

On December 19, 2016, DHS published an Interim Final Rule (IFR) in the **Federal Register** at 81 FR 92266 and received 17 public comments. USCIS amended its regulations governing the classification for Victims of Severe Forms of Trafficking in Persons; Eligibility for T Nonimmigrant Status, *see* Immigration and Nationality Act (INA) sec. 101(a)(15)(T), 8 U.S.C. 1101(a)(15)(T). Specifically, the IFR revised DHS regulations at 8 CFR 214.11 to:

- Implement statutorily mandated changes by revising the existing eligibility requirements under the following statutes:
  - Trafficking Victims Protection Reauthorization Act of 2003 (TVPRA 2003), Public Law 108–193, 117 Stat. 2875 (Dec. 19, 2003).
  - Violence Against Women and Department of Justice Reauthorization Act of 2005 (VAWA 2005), Public Law 109–162, 119 Stat. 2960 (Jan. 5, 2006).
  - William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA 2008), Public Law 110–457, 122 Stat. 5044 (Dec. 23, 2008).
  - Violence Against Women Act of 2013 (VAWA 2013), Public Law 113–4 (Mar. 7, 2013).
  - Justice for Victims of Trafficking Act of 2015 (JVTA), Public Law 114–22, 129 Stat. 227 (May 29, 2015).
- Expand the definition and discussion of Law Enforcement Agencies (LEA) to include State and local law enforcement agencies. 8 CFR 214.11(a).
- Raise the age at which the applicant must comply with any reasonable request by an LEA for assistance in an investigation or prosecution of acts of trafficking in persons from 15 years to 18 years of age. 8 CFR 214.11(b)(3)(i) and (h)(4)(ii).
- Exempt applicants who are unable, due to physical or psychological trauma, to comply with any reasonable request by an LEA. 8 CFR 214.11(b)(3)(ii) and (h)(4)(i).
- Expand the regulatory definition of physical presence on account of trafficking to include those whose entry into the United States was for participation in investigative or judicial processes associated with an act or a perpetrator of trafficking. 8 CFR 214.11(b)(2) and (g)(1).
- Allow principal applicants under 21 years of age to apply for derivative T nonimmigrant status for unmarried siblings under 18 years and parents as eligible derivative family members. 8 CFR 214.11(k)(1)(ii).
- Provide age-out protection for a principal applicant's eligible family members under 21 years of age. 8 CFR 214.11(k)(5)(ii).

• Allow principal applicants of any age to apply for derivative T nonimmigrant status for unmarried siblings under 18 years of age and parents as eligible family members if the family member faces a present danger of retaliation as a result of the principal applicant's escape from a severe form of trafficking or cooperation with law enforcement. 8 CFR 214.11(k)(1)(iii) and (k)(5)(iv).

• Allow principal applicants of any age to apply for derivative T nonimmigrant status for children (adult or minor) of the principal's derivative family members if the derivative's child faces a present danger of retaliation as a result of the principal's escape from a severe form of trafficking or cooperation with law enforcement. 8 CFR 214.11(k)(1)(iii).

• Permit all derivative T nonimmigrants, if otherwise eligible, to apply for adjustment of status under INA section 245(l), 8 U.S.C. 1255(l). 8 CFR 245.23(b)(2).

• Remove the requirement that eligible family members must face extreme hardship if the family member is not admitted to the United States or was removed from the United States. *See* 81 FR 92282 (describing the change).

• Exempt T nonimmigrant applicants from the public charge ground of inadmissibility. 8 CFR 212.16(b).

• Limit duration of T nonimmigrant status to 4 years but providing extensions for LEA need, for exceptional circumstances, and for the pendency of an application for adjustment of status. 8 CFR 214.11(c)(1) and (l).

• Clarify that presence in the Commonwealth of the Northern Mariana Islands after being granted T nonimmigrant status qualifies toward the requisite physical presence requirement for adjustment of status. 8 CFR 245.23(a)(3)(ii).

• Conform the regulatory definition of sex trafficking to the revised statutory definition in section 103(10) of the Trafficking Victims Protection Act. 22 U.S.C. 7102(10), as amended by section 108(b) of the JVTA, 129 Stat. 239. 8 CFR 214.11(a).

• Specify how USCIS will exercise its waiver of grounds of inadmissibility authority with respect to criminal inadmissibility grounds. 8 CFR 212.16(b)(3).

• Discontinue the practice of weighing evidence as primary and secondary in favor of an ''any credible evidence'' standard. 8 CFR 214.11(d)(2)(ii) and (3).

• Provide guidance on the definition of ''severe form of trafficking in persons'' where an individual has not performed labor or services, or a commercial sex act. 8 CFR 214.11(f)(1).

• Remove the current regulatory ''opportunity to depart'' requirement for those who escaped traffickers before law enforcement became involved. 8 CFR 214.11(g)(2).

• Address situations where trafficking has occurred abroad, but the applicant can potentially meet the physical presence requirement. 8 CFR 214.11(g)(3).

• Eliminate the requirement that an applicant provide three passport-style photographs. *See* 81 FR 92298 (providing reasons for the change.

• Remove the filing deadline for applicants victimized prior to October 28, 2000. Update the regulation to reflect the creation of DHS, and to implement current standards of regulatory organization, plain language, and USCIS efforts to transform its customer service practices. *See* 81 FR 92277.

DHS believes the T nonimmigrant program is an effective tool in the investigation of and fight against human trafficking, disrupting and dismantling human trafficking organizations and providing support and protection to their victims. During the reopening of the public comment period, DHS encourages comments and suggestions on all aspects of the T-nonimmigrant program and USCIS administration of the program.

DHS is reopening the comment period to allow interested persons to provide up-to-date comments on the IFR in recognition of the time that has lapsed since the initial publication of the IFR. Reopening the comment period ensures that we are fully considering all current factors, concerns and input of the parties who may be affected by this rulemaking. DHS also believes that the T nonimmigrant program will benefit from updated public comments regarding eligibility and procedures for the classification for T nonimmigrant status. Due to the lapse in time since the IFR was issued, DHS seeks to reengage the public and allow further input on the changes prior to finalizing this rulemaking. DHS will consider comments received during the entire public comment period in our development of a final rule.

Alejandro N. Mayorkas,

Secretary, U.S. Department of Homeland Security.

[FR Doc. 2021–14992 Filed 7–15–21; 8:45 am]

BILLING CODE 9111–97–P

FARM CREDIT ADMINISTRATION

12 CFR Part 655

RIN 3052–AD47

Federal Agricultural Mortgage Corporation Disclosure and Reporting

AGENCY: Farm Credit Administration.

ACTION: Notification of effective date.

SUMMARY: The Farm Credit Administration (FCA) issued a direct final rule adopting administrative amendments to eliminate requirements for the Federal Agricultural Mortgage Corporation (Farmer Mac) to submit paper copies of certain reports to the FCA's Office of Secondary Market Oversight (OSMO). Electronic copies of the reports are sufficient for oversight and examination purposes.

DATES: The direct final rule amending 12 CFR part 655, published on May 24, 2021 (86 FR 27797), is effective on July 9, 2021.

FOR FURTHER INFORMATION CONTACT:

Technical Information: Tiffany West, Assistant to the Director, Office of Secondary Market Oversight, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4280, TTY (703) 883–4056; or

Legal Information: Hazem Isawi, Senior Attorney, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TTY (703) 883–4056.

SUPPLEMENTARY INFORMATION: On May 24, 2021, FCA issued a direct final rule adopting administrative amendments to eliminate requirements for Farmer Mac to submit paper copies of certain reports to OSMO. In accordance with 12 U.S.C. 2252(c)(1), the effective date of the rule is no earlier than 30 days from the date of publication in the **Federal Register** during which either or both Houses of Congress are in session. Based on the records of the sessions of Congress, the effective date of the regulations is July 9, 2021.

Dated: July 12, 2021.

Dale Aultman,

Secretary, Farm Credit Administration Board.

[FR Doc. 2021–15115 Filed 7–15–21; 8:45 am]

BILLING CODE 6705–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2021–0176; Airspace Docket No. 21–ACE–8]

RIN 2120–AA66

Amendment of Class D and Class E Airspace; Sioux City, IA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: This action corrects the final rule published in the **Federal Register** on June 11, 2021, amending the Class D and Class E airspace at Sioux Gateway Airport/Brigadier General Bud Day Field, Sioux City, IA. The geographic coordinates for Sioux Gateway Airport/Brigadier General Bud Day Field were incorrectly published as ''(Lat. 42°24′09″ N, long. 96°23′05″ W)'' vice ''(Lat. 42°24′05″ N, long. 96°23′04″ W)'' in the Class D and Class E airspace legal descriptions.

DATES: Effective date 0901 UTC, August 12, 2021. The Director of the Federal Register approves this incorporation by reference action under Title 1 Code of Federal Regulations part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.11E, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *https://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Rules and Regulations Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11E at NARA, email: *fedreg.legal@nara.gov* or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

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

SUPPLEMENTARY INFORMATION:

History

The FAA published a final rule in the **Federal Register** (86 FR 31105; June 11, 2021) for Docket No. FAA–2021–0176 amending the Class D and Class E airspace at Sioux Gateway Airport/Brigadier General Bud Day Field, Sioux City, IA. Subsequent to publication, the FAA identified the geographic coordinates for Sioux Gateway Airport/Brigadier General Bud Day Field were incorrectly published as ''(Lat. 42°24′09″ N, long. 96°23′05″ W)'' vice ''(Lat. 42°24′05″ N, long. 96°23′04″ W)'' in the Class D and Class E airspace legal descriptions. This action corrects that error.

Class D and Class E airspace designations are published in paragraph 5000, 6002, and 6005, respectively, of FAA Order 7400.11E dated July 21, 2020, and effective September 15, 2020, which is incorporated by reference in 14 CFR 71.1. The Class D and Class E airspace designations listed in this document will be subsequently published in the Order.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020, and effective September 15, 2020. FAA Order 7400.11E is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11E lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

Correction to Final Rule

Accordingly, pursuant to the authority delegated to me, Amendment of Class D and Class E Airspace; Sioux City, IA, published in the **Federal Register** of June 11, 2021 (86 FR 31105), Docket No. FAA–2021–0176, is corrected as follows:

71.1 [Corrected]

■ On page 31107, column 1, line 37, replace ''(lat. 42°24′09″N., long. 96°23′05″W.)'' with ''(Lat. 42°24′05″ N, long. 96°23′04″ W)''.

■ On page 31107, column 1, line 63, replace ''(lat. 42°24′09″N., long. 96°23′05″W.)'' with ''(Lat. 42°24′05″ N, long. 96°23′04″ W)''.

■ On page 31107, column 2, line 25, replace ''(lat. 42°24′09″N., long. 96°23′05″W.)'' with ''(Lat. 42°24′05″ N, long. 96°23′04″ W)''.

Issued in Fort Worth, Texas, on July 12, 2021.

Martin A. Skinner,

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

[FR Doc. 2021–15040 Filed 7–15–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

[Docket No. DEA–495]

Schedules of Controlled Substances: Extension of Temporary Placement of *N*-Ethylhexedrone, *alpha*-Pyrrolidinohexanophenone, 4-Methyl-*alpha*-ethylaminopentiophenone, 4′-Methyl-*alpha*-pyrrolidinohexiophenone, *alpha*-Pyrrolidinoheptaphenone, and 4′-Chloro-*alpha*-pyrrolidinovalerophenone in Schedule I of the Controlled Substances Act

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Temporary rule; temporary scheduling order; extension.

SUMMARY: The Administrator of the Drug Enforcement Administration is issuing this order to extend the temporary schedule I status of six synthetic cathinones, as identified in this order. The schedule I status of these six substances currently is in effect until July 18, 2021. This temporary order extends the temporary scheduling of these six substances for one year, or until the permanent scheduling action for these substances is completed, whichever occurs first.

DATES: This order, which extends the temporary scheduling order that DEA previously issued for these substances (84 FR 34291, July 18, 2019), is effective July 18, 2021 and expires on July 18, 2022. If DEA publishes a final rule making this scheduling action permanent, this order will expire on the effective date of that rule, if the effective date is earlier than July 18, 2022.

FOR FURTHER INFORMATION CONTACT: Terrence L. Boos, Ph.D., Drug and Chemical Evaluation Section, Diversion Control Division, Drug Enforcement Administration; Telephone: (571) 362–3249.

SUPPLEMENTARY INFORMATION: In this order, the Drug Enforcement Administration (DEA) extends the temporary scheduling of the following six controlled substances in schedule I of the Controlled Substances Act (CSA), including their optical, positional, and geometric isomers, salts, and salts of isomers:

- *N*-ethylhexedrone (other name: 2-(ethylamino)-1-phenylhexan-1-one),
- *alpha*-pyrrolidinohexanophenone (other names: α-PHP, *alpha*-pyrrolidinohexiophenone, 1-phenyl-2-(pyrrolidin-1-yl)hexan-1-one),

- 4-methyl-*alpha*-ethylaminopentiophenone (other names: 4-MEAP, 2-(ethylamino)-1-(4-methylphenyl)pentan-1-one),
- 4′-methyl-*alpha*-pyrrolidinohexiophenone (other names: MPHP, 4′-methyl-*alpha*-pyrrolidinohexanophenone; 1-(4-methylphenyl)-2-(pyrrolidin-1-yl)hexan-1-one),
- *alpha*-pyrrolidinoheptaphenone (other names: PV8, 1-phenyl-2-(pyrrolidin-1-yl)heptan-1-one), and
- 4′-chloro-*alpha*-pyrrolidinovalerophenone (other names: 4-chloro-α-PVP, 4′-chloro-*alpha*-pyrrolidinopentiophenone, 1-(4-chlorophenyl)-2-(pyrrolidin-1-yl)pentan-1-one).

Background and Legal Authority

On July 18, 2019, the Acting Administrator of DEA (Acting Administrator) published a temporary scheduling order in the **Federal Register** (84 FR 34291) placing *N*-ethylhexedrone (other name: 2-(ethylamino)-1-phenylhexan-1-one); *alpha*-pyrrolidinohexanophenone (other names: α-PHP, *alpha*-pyrrolidinohexiophenone, 1-phenyl-2-(pyrrolidin-1-yl)hexan-1-one); 4-methyl-*alpha*-ethylaminopentiophenone (other names: 4-MEAP, 2-(ethylamino)-1-(4-methylphenyl)pentan-1-one); 4′-methyl-*alpha*-pyrrolidinohexiophenone (other names: MPHP, 4′-methyl-*alpha*-pyrrolidinohexanophenone; 1-(4-methylphenyl)-2-(pyrrolidin-1-yl)hexan-1-one); *alpha*-pyrrolidinoheptaphenone (other names: PV8, 1-phenyl-2-(pyrrolidin-1-yl)heptan-1-one); and 4′-chloro-*alpha*-pyrrolidinovalerophenone (other names: 4-chloro-α-PVP, 4′-chloro-*alpha*-pyrrolidinopentiophenone, 1-(4-chlorophenyl)-2-(pyrrolidin-1-yl)pentan-1-one), synthetic cathinones, in schedule I of the CSA pursuant to the temporary scheduling provisions of 21 U.S.C. 811(h).[1] That order was effective on the date of publication, and was based on findings by the Acting Administrator that the temporary scheduling of these substances was necessary to avoid an imminent hazard to the public safety pursuant to 21 U.S.C. 811(h)(1). Subsection (h)(2) provides that the temporary control of these substances expires two years from the effective date of the temporary scheduling order, *i.e.,* on July 18, 2021. 21 U.S.C. 811(h)(2). However, this same subsection also provides that, during the pendency of proceedings under 21 U.S.C. 811(a)(1) with respect to the substance, the temporary scheduling of that substance can be extended for up to one year. Proceedings for the scheduling of a substance under 21 U.S.C. 811(a) may be initiated by the Attorney General (delegated to the Administrator of DEA (Administrator) pursuant to 28 CFR 0.100) on his own motion, at the request of the Secretary of Health and Human Services (HHS),[2] or on the petition of any interested party.

The Administrator, on her own motion, has initiated proceedings under 21 U.S.C. 811(a)(1) to permanently schedule *N*-ethylhexedrone, α-PHP, 4-MEAP, MPHP, PV8, and 4-chloro-α-PVP. DEA is simultaneously publishing a notice of proposed rulemaking for the permanent placement of *N*-ethylhexedrone, α-PHP, 4-MEAP, MPHP, PV8, and 4-chloro-α-PVP in schedule I elsewhere in this issue of the **Federal Register**. If that proposed rule is finalized, DEA will publish a final rule in the **Federal Register** to make permanent the schedule I status of these substances.

Pursuant to 21 U.S.C. 811(h)(2), the Administrator orders that the temporary scheduling of *N*-ethylhexedrone, *alpha*-pyrrolidinohexanophenone, 4-methyl-*alpha*-ethylaminopentiophenone, 4′-methyl-*alpha*-pyrrolidinohexiophenone, *alpha*-pyrrolidinoheptaphenone, and 4′-chloro-*alpha*-pyrrolidinovalerophenone, and their optical, positional, and geometric isomers, salts, and salts of isomers, be extended for one year, or until the permanent scheduling proceeding is completed, whichever occurs first.

Regulatory Matters

The CSA provides for an expedited temporary scheduling action where such action is necessary to avoid an imminent hazard to the public safety. Under 21 U.S.C. 811(h), the Administrator, as delegated by the Attorney General, may, by order, place a substance in schedule I on a temporary basis. This same subsection provides that the temporary scheduling of a substance shall expire at the end of two years from the date of the issuance of the order scheduling such substance, except that the Administrator may, during the pendency of proceedings under 21 U.S.C. 811(a)(1) to permanently schedule the substance, extend the temporary scheduling for up to one year.

To the extent that section 811(h) directs that temporary scheduling actions be issued by order and sets forth the procedures by which such orders are to be issued and extended, DEA believes that the notice and comment requirements of section 553 of the Administrative Procedure Act (APA), 5 U.S.C. 553, do not apply to this extension of the temporary scheduling order. The specific language chosen by Congress indicates an intention for DEA to proceed through the issuance of an order instead of proceeding by rulemaking. Given that Congress specifically requires the Attorney General to follow rulemaking procedures for other kinds of scheduling actions, see 21 U.S.C. 811(a), it is noteworthy that, in subsection 811(h), Congress authorized the issuance of temporary scheduling actions by order rather than by rule. In the alternative, even assuming that this action might be subject to section 553 of the APA, the Administrator finds that there is good cause to forgo the notice and comment requirements of section 553, as any further delays in the process for extending the temporary scheduling order would be impracticable and contrary to the public interest in view of the manifest urgency to avoid an imminent hazard to the public safety that these substances would present if scheduling expired, for the reasons expressed in the temporary scheduling order (84 FR 34291, July 18, 2019). Further, DEA believes that this order extending the temporary scheduling action is not a ''rule'' as defined by 5 U.S.C. 601(2), and, accordingly, is not subject to the requirements of the Regulatory Flexibility Act. The requirements for the preparation of an initial regulatory flexibility analysis in 5 U.S.C. 603(a) are not applicable where, as here, DEA is not required by section 553 of the APA or any other law to publish a general notice of proposed rulemaking.

Additionally, this action is not a significant regulatory action as defined by Executive Order (E.O.) 12866 (Regulatory Planning and Review), section 3(f), and the principles reaffirmed in E.O. 13563 (Improving Regulation and Regulatory Review). Accordingly, this action has not been reviewed by the Office of Management and Budget.

This action will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with E.O. 13132

[1] Though DEA has used the term ''final order'' with respect to temporary scheduling orders in the past, this notice adheres to the statutory language of 21 U.S.C. 811(h), which refers to a ''temporary scheduling order.'' No substantive change is intended.

[2] The Secretary of HHS has delegated to the Assistant Secretary for Health of HHS the authority to make domestic drug scheduling recommendations.

(Federalism), it is determined that this action does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

As noted above, this action is an order, not a rule. Accordingly, the Congressional Review Act (CRA) [3] is inapplicable, as it applies only to rules. 5 U.S.C. 801, 804(3). It is in the public interest to maintain the temporary placement of *N*-ethylhexedrone, α-PHP, 4-MEAP, MPHP, PV8, and 4-chloro-α-PVP in schedule I because they pose a public health risk, for the reasons expressed in the temporary scheduling order (84 FR 34291, July 18, 2019). The temporary scheduling action was taken pursuant to 21 U.S.C. 811(h), which is specifically designed to enable DEA to act in an expeditious manner to avoid an imminent hazard to the public safety. Under 21 U.S.C. 811(h), temporary scheduling orders are not subject to notice and comment rulemaking procedures. DEA understands that the CSA frames temporary scheduling actions as orders rather than rules to ensure that the process moves swiftly, and this extension of the temporary scheduling order continues to serve that purpose. For the same reasons that underlie 21 U.S.C. 811(h), that is, the need to place these substances in schedule I because they pose an imminent hazard to public safety, it would be contrary to the public interest to delay implementation of this extension of the temporary scheduling order. Therefore, in accordance with section 808(2) of the CRA, this order extending the temporary scheduling order shall take effect immediately upon its publication. DEA will submit a copy of this extension of the temporary scheduling order to both Houses of Congress and to the Comptroller General, although such filing is not required under the CRA, 5 U.S.C. 801–808, because, as noted above, this action is an order, not a rule.

Anne Milgram,

Administrator.

[FR Doc. 2021–15113 Filed 7–15–21; 8:45 am]

BILLING CODE 4410–09–P

[3] This is the colloquial name for Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996.

DEPARTMENT OF JUSTICE

28 CFR Part 50

[Docket No. OAG 174; AG Order No. 5077–2021]

RIN 1105–AB61

Processes and Procedures for Issuance and Use of Guidance Documents

AGENCY: Office of the Attorney General, Department of Justice.

ACTION: Interim final rule; request for comments.

SUMMARY: This interim final rule (''rule'') implements Executive Order 13992, which, among other things, revoked Executive Order 13891 and directed the heads of all agencies to promptly take steps to rescind any orders, rules, regulations, guidelines, or policies, or portions thereof, implementing or enforcing the revoked Executive Order. By this rule, the Department of Justice (''Department'' or ''DOJ'') revokes amendments to its regulations that were made during 2020 pursuant to Executive Order 13891, which imposed limitations on the issuance and use of guidance documents. For further information on how the Department intends to address guidance documents going forward, interested parties should consult an Attorney General Memorandum the Department of Justice is issuing on its website in conjunction with this rule.

DATES:

Effective date: This rule is effective July 16, 2021.

Applicability date: July 1, 2021.

Comments: Comments are due on or before August 16, 2021.

ADDRESSES: To ensure proper handling of comments, please reference Docket No. OAG 174 on all electronic and written correspondence. The Department encourages the electronic submission of all comments through *https://www.regulations.gov* using the electronic comment form provided on that site. For ease of reference, an electronic copy of this document is also available at that website. It is not necessary to submit paper comments that duplicate the electronic submission, as comments submitted to *https://www.regulations.gov* will be posted for public review and are part of the official docket record. However, should you wish to submit written comments through regular or express mail, they should be sent to Robert Hinchman, Senior Counsel, Office of Legal Policy, U.S. Department of Justice, Room 4252 RFK Building, 950 Pennsylvania Avenue NW, Washington, DC 20530. Comments received by mail will be considered timely if they are postmarked on or before August 16, 2021. The electronic Federal eRulemaking portal will accept comments until Midnight Eastern Time at the end of that day.

FOR FURTHER INFORMATION CONTACT: Robert Hinchman, Senior Counsel, Office of Legal Policy, U.S. Department of Justice, telephone (202) 514–8059 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Posting of Public Comments

Please note that all comments received are considered part of the public record and made available for public inspection online at *https://www.regulations.gov.* Information made available for public inspection includes personal identifying information (such as your name, address, etc.) voluntarily submitted by the commenter.

You are not required to submit personal identifying information in order to comment on this rule. Nevertheless, if you want to submit personal identifying information (such as your name, address, etc.) as part of your comment, but do not want it to be posted online, you must include the phrase ''PERSONAL IDENTIFYING INFORMATION'' in the first paragraph of your comment. You must also locate all the personal identifying information that you do not want posted online in the first paragraph of your comment and identify what information you want the agency to redact. Personal identifying information identified and located as set forth above will be placed in the agency's public docket file, but not posted online.

If you want to submit confidential business information as part of your comment but do not want it to be posted online, you must include the phrase ''CONFIDENTIAL BUSINESS INFORMATION'' in the first paragraph of your comment. You must also prominently identify the confidential business information to be redacted within the comment. If a comment has so much confidential business information that it cannot be effectively redacted, the agency may choose not to post that comment (or to post that comment only partially) on *https://www.regulations.gov.* Confidential business information identified and located as set forth above will not be placed in the public docket file, nor will it be posted online.

If you want to inspect the agency's public docket file in person by appointment, please see the **FOR**

FURTHER INFORMATION CONTACT paragraph.

II. Discussion

A. Overview

This rule implements Executive Order 13992, ''Revocation of Certain Executive Orders Concerning Federal Regulation'' (86 FR 7049), by revoking the Department's regulations at 28 CFR 50.26 and 50.27. Going forward, the Department's approach to those matters will be governed by a new Attorney General Memorandum being issued concurrently with this rule.

B. Background—Existing Regulations and Memoranda

In 2020, the Department of Justice published two interim final rules (''IFRs,'' ''rules,'' or ''regulations'') that regulate the issuance and use of guidance documents by the Department and its components. The first rule, which was entitled ''Prohibition on the Issuance of Improper Guidance Documents Within the Justice Department'' and added a new 28 CFR 50.26, was published August 19, 2020 (85 FR 50951). That rule emphasized that guidance documents generally may not be used ''create rights or obligations binding on persons or entities outside the Executive Branch.'' 28 CFR 50.26(a)(4). It also instituted compliance procedures requiring Department components to include disclaimers and other specific language in all guidance documents. *Id.* 50.26(b).

The first rule was followed by a second, entitled ''Processes and Procedures for Issuance and Use of Guidance Documents'' and published on October 7, 2020 (85 FR 63200), which expanded on aspects of the first rule by adding a new 28 CFR 50.27. Briefly, this second rule set forth processes and procedures governing the review, clearance, and issuance of guidance documents, and included limitations on the use of guidance documents in criminal and civil enforcement actions brought by the Department.

Those two regulations published in 2020 were developed from, and promulgated pursuant to, three documents. The first was a November 16, 2017, memorandum issued by Attorney General Sessions, entitled ''Prohibition on Improper Guidance Documents'' (''the November 2017 Memorandum''). The November 2017 Memorandum acknowledged the importance of guidance documents but also stated that ''guidance may not be used as a substitute for rulemaking and may not be used to impose new requirements on entities outside the Executive Branch.'' These principles were subsequently memorialized in the Justice Manual at section 1–19.000, *https://www.justice.gov/jm/justice-manual.*

The second underlying document was a memorandum issued by Associate Attorney General Brand on January 25, 2018, entitled ''Limiting Use of Agency Guidance Documents in Affirmative Civil Enforcement Cases'' (''the January 2018 Memorandum''). The January 2018 Memorandum reiterated many aspects of the November 2017 Memorandum, and stated more explicitly that the Department could not ''convert'' guidance documents into binding rules through litigation, and that failure to comply with a guidance document should not be used as presumptive or conclusive evidence that a party violated a related statute or regulation. That 2018 policy statement was then codified in the Justice Manual at section 1–20.000.

The third relevant document was President Trump's Executive Order 13891, ''Promoting the Rule of Law Through Improved Agency Guidance Documents,'' which was issued on October 9, 2019, and published in the **Federal Register** the next week. *See* 84 FR 55235 (Oct. 15, 2019). That Executive Order embodied some of the same concepts as the November 2017 Memorandum and January 2018 Memorandum, with some differences. In particular, Executive Order 13891 required, among other things, that each agency, as appropriate, build a single, searchable, online database to which the agency would publicly post all guidance documents. Executive Order 13891 also required that agencies promulgate or amend regulations to establish procedures for issuing guidance documents, including requiring non-binding disclaimer language and the publication of ''significant'' guidance documents for notice and comment. Executive Order 13891 also directed agencies to incorporate a series of detailed and prescriptive requirements into their regulations for the development, review, issuance, and use of guidance documents.

The two regulations that are the subject of this rulemaking were issued pursuant to the requirements of Executive Order 13891, though some of their provisions were based on the somewhat similar language of the November 2017 Memorandum and January 2018 Memorandum.

C. Executive Order 13992

On January 20, 2021, President Biden issued Executive Order 13992, which, among other things, revoked Executive Order 13891 and stated that ''agencies must be equipped with the flexibility to use robust regulatory action to address national priorities.'' 86 FR 7049 (Jan. 25, 2021). Executive Order 13992 directed the heads of all agencies to ''promptly take steps to rescind any orders, rules, regulations, guidelines, or policies, or portions thereof, implementing or enforcing'' the revoked Executive Order.

D. Revocation of 28 CFR 50.26 and 28 CFR 50.27

Based on its evaluation of the regulations at 28 CFR 50.26 and 28 CFR 50.27, the Department has concluded that those regulations are unnecessary and unduly burdensome, lack flexibility and nuance, and limit the ability of the Department to do its work effectively. Among other things, the regulations have generated collateral disputes in affirmative and enforcement litigation, and they have discouraged Department components from preparing and issuing guidance that would be helpful to members of the public. In addition, because the regulations imposed requirements on a particular category of agency documents deemed to be ''guidance,'' the regulations caused Department staff to expend significant resources determining whether each agency document, product or communication constituted ''guidance'' and was therefore subject to these regulations. The Department has determined that the rules should be revoked.

In revoking the rules, the Department is not departing from the principle that guidance documents cannot impose legal requirements beyond those found in relevant constitutional provisions, statutes, and legislative regulations. The Department also continues to believe that guidance documents should be clear, transparent, and readily accessible to the public. But these principles, and other related Department policies and practices concerning guidance documents, have traditionally been addressed through memoranda from Department leadership rather than through regulations. The Department is therefore revoking 28 CFR 50.26 and 28 CFR 50.27 in their entirety, and the Attorney General is concurrently issuing a new Memorandum setting forth the Department's policies going forward.

E. Public Comments on the Two IFRs Pertaining to 28 CFR 50.26 and 50.27

The two IFRs issued in 2020 to promulgate 28 CFR 50.26 and 50.27 were made effective upon issuance, and by their nature they did not require a pre-promulgation notice-and-comment

period under the Administrative Procedure Act. However, the Department chose to provide a 30-day period for post-promulgation public comment for each rule.

The Department received fewer than ten substantive comments on the two rules. The comments discussed the need to ensure that regulated parties have notice of legal obligations, and for enforcement actions to be predicated on statutes and regulations. Other comments noted the importance of issuing agency guidance to the public, as agencies use interpretative guidance to explain legal requirements and put them in context. The Department has considered these comments in connection with the decision to revoke the rules.

III. Conclusion

After having considered Executive Order 13992, the views of the Department's components and their experience with the two rules, and the public comments on the two IFRs published in 2020, the Department has concluded that the best approach at this point is to revoke the two regulations, 28 CFR 50.26 and 50.27, in their entirety, effective immediately. Revocation frees Department personnel, including those in its litigating components and those in components that issue guidance documents, from the overly prescriptive nature of these two regulations. Accordingly, this rule removes the regulations at 28 CFR 50.26 and 50.27.

The current provisions of the Justice Manual at sections 1–19.000 and 1–20.000 (*https://www.justice.gov/jm/justice-manual*) will be revised as appropriate at a later date. The new Attorney General Memorandum, issued concurrently with this rule, sets forth the Department's policies in this area going forward.

III. Regulatory Certifications

A. Administrative Procedure Act

This rule relates to a matter of agency management or personnel and is a rule of agency organization, procedure, or practice. As such, this rule is exempt from the usual requirements of prior notice and comment and a 30-day delay in effective date. *See* 5 U.S.C. 553(a)(2), (b)(A), (d). The rule is effective upon signature. The Department, however, is, in its discretion, seeking post-promulgation public comment on this rulemaking.

B. Regulatory Flexibility Act

A Regulatory Flexibility Analysis was not required for this final rule because the Department was not required to publish a general notice of proposed rulemaking for this matter. *See* 5 U.S.C. 601(2), 604(a).

C. Executive Orders 12866 and 13563—Regulatory Review

This rule has been drafted and reviewed in accordance with Executive Order 12866, ''Regulatory Planning and Review,'' section 1(b), The Principles of Regulation, and Executive Order 13563, ''Improving Regulation and Regulatory Review,'' section 1(b), General Principles of Regulation.

This final rule is ''limited to agency organization, management, or personnel matters'' and thus is not a ''rule'' for purposes of review by the Office of Management and Budget (OMB), a determination in which OMB has concurred. *See* Executive Order 12866, sec. 3(d)(3). Accordingly, this rule has not been reviewed by OMB. The Department had claimed a similar exemption at the time of promulgating the two regulations (28 CFR 50.26 and 50.27) that are being revoked by this rule. *See* 85 FR 50951, 50952; 85 FR 63200, 63201.

D. Executive Order 12988—Civil Justice Reform

This regulation meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988, ''Civil Justice Reform.''

E. Executive Order 13132—Federalism

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, ''Federalism,'' the Department has determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

F. Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted for inflation) in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions are necessary under the provisions of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1501 *et seq.*

G. Congressional Review Act

This rule is not a major rule as defined by section 804 of the Congressional Review Act (CRA), 5 U.S.C. 804. This action pertains to agency management or personnel, and agency organization, procedure, or practice, and does not substantially affect the rights or obligations of non-agency parties. Accordingly, it is not a ''rule'' as that term is used in the CRA, 5 U.S.C. 804(3)(B), (C), and the reporting requirement of 5 U.S.C. 801 does not apply.

H. Paperwork Reduction Act of 1995

This final rule does not impose any new reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3521.

List of Subjects in 28 CFR Part 50

Administrative practice and procedure.

Accordingly, for the reasons set forth in the preamble, part 50 of chapter I of title 28 of the Code of Federal Regulations is amended as follows:

PART 50—STATEMENTS OF POLICY

■ 1. The authority citation for part 50 continues to read as follows:

Authority: 5 U.S.C. 301; 18 U.S.C. 1162; 28 U.S.C. 509, 510, 516, and 519; 42 U.S.C. 1921 et seq., 1973c; and Pub. L. 107–273, 116 Stat. 1758, 1824.

§§ 50.26 through 50.27 [Removed and reserved]

■ 2. Sections 50.26 and 50.27 are removed and reserved.

Dated: July 1, 2021.

Merrick B. Garland,

Attorney General.

[FR Doc. 2021–14480 Filed 7–15–21; 8:45 am]

BILLING CODE 4410–BB–P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Parts 169 and 169a

[Docket ID: DOD–2019–OS–0113]

RIN 0790–AK91

Commercial Activities Program

AGENCY: Office of the Secretary, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: This final rule removes DoD's regulations concerning the Commercial Activities Program. The regulations are obsolete since they have been

superseded by statute, regulation, and policy and, therefore, can be removed from the Code of Federal Regulations (CFR).

DATES: This rule is effective on July 16, 2021.

FOR FURTHER INFORMATION CONTACT: Jason M. Beck, (703) 697–1735 (desk); 571–309–0478 (mobile).

SUPPLEMENTARY INFORMATION: This final rule removes the DoD regulations at 32 CFR part 169, most recently updated on May 19, 1989 (54 FR 21726), and 32 CFR part 169a, most recently updated on July 1, 1992 (57 FR 29207), because they are obsolete. This action is predicated on reissued guidance and policy from the Office of Management and Budget (OMB), cancellation of associated DoD policies, and the enactment of statute in title 10 of the United States Code (U.S.C.).

The content of 32 CFR part 169 was based on the DoD policy document, DoD Instruction 4100.15, ''Commercial Activities Program,'' which was subsequently cancelled on July 10, 2013, because it was obsolete. The content of 32 CFR part 169a was based on the DoD policy document, DoD Instruction 4100.33, ''Commercial Activities Program Procedures,'' which was also subsequently cancelled on March 4, 2011, because it was obsolete. DoD's commercial activities program was based on a previous version of OMB Circular A–76, ''Performance of Commercial Activities,'' which was rescinded and replaced in May 2003 (available at *https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/circulars/A76/a76_incl_tech_correction.pdf*).

In addition to the cancellation of the associated DoD Instructions for parts 169 and 169a that deem the rules obsolete, the subject matter aligned to these rules have substantially changed and been addressed in other areas. For example, 10 U.S.C. 2330a and 10 U.S.C. 2461 were enacted in 2008 and 1996, respectively; the Federal Activities Inventory Reform (FAIR) Act was enacted in 1998; the definitions and policy in the Federal Acquisition Regulation (FAR) Parts 2, 7.3, and 7.5, as well as the Defense Federal Acquisition Regulation Supplement (DFARS) 207.5 were changed to reflect the new rules in the FAIR Act and the 2003 version of OMB Circular A–76; and the Office of Federal Procurement Policy (OFPP) issued Policy Letter 11–01, ''Performance of Inherently Governmental and Critical Functions,'' in 2011 (76 FR 56227). These laws, regulations, and Federal policies all substantially address the policy space covered by 32 CFR parts 169 and 169a. The FAIR Act, for example, establishes in law the framework of inherently governmental and commercial activities functions, while 10 U.S.C. 2461 establishes the requirement for public/private competitions before conversion to contractor performance—competitions which are covered under OMB Circular A–76. The FAR and DFARS regulations, as well as OFPP Policy Letter 11–01, go even farther than the FAIR Act and delineate additional categories of functions (such as closely associated with inherently governmental and critical) which are not mentioned in 32 CFR 169 and 169a. Similarly, 10 U.S.C. 2330a establishes law for the collection of contract services data, another area related to the commercial activities discussed in 32 CFR 169 and 169a, but not covered by them.

Additionally, the OMB Circular A–76 public-private competition process has been under a Congressional moratorium since 2008. If the moratorium were lifted, the rules would still be considered obsolete and unnecessary, and promulgating new rules would be unnecessary due to the inclusion of language in title 10 U.S.C., the FAR, DFARS, and elsewhere in executive agency policy, as previously noted. These acts and policies address and cover the intent of parts 169 and 169a and, therefore, no longer make them applicable and worthy of staying active. Furthermore, not only are parts 169 and 169a unnecessary, they are no longer current with the statutory, regulatory, and policy framework that governs the acquisition of services and functions in the Total Force Management policy space.

It has been determined that publication of these CFR part removals for public comment is impracticable, unnecessary, and contrary to public interest since they are based on the removal of obsolete information. These removals are not significant under Executive Order (E.O.) 12866, ''Regulatory Planning and Review.''

List of Subjects in 32 CFR Parts 169 and 169a

Armed forces, Government procurement.

Accordingly, the Department of Defense amends 32 CFR chapter I as follows:

PART 169—[REMOVED]

■ 1. Under the authority of 5 U.S.C. 301, 32 CFR part 169 is removed.

PART 169a—[REMOVED]

■ 2. Under the authority of 5 U.S.C. 301, 32 CFR part 169a is removed.

Dated: July 13, 2021.

Kayyonne T. Marston,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2021–15163 Filed 7–15–21; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2021–0470]

RIN 1625–AA00

Safety Zone; Upper Mississippi River, Mile Marker 579.7 Approximately 1,000 Feet Northwest of the Ulysses S. Grant Memorial Hwy., Dubuque, IA

AGENCY: Coast Guard, Department of Homeland Security (DHS).

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for all navigable waters of the Upper Mississippi River at mile marker 579.7 extending 500 feet from the left decending bank approximately 1,000 feet northwest of the Ulysses S. Grant Memorial Hwy. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards created by a fireworks display. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Sector Upper Mississippi River or a designated representative.

DATES: This rule is effective on July 17, 2021, from 9 p.m. through 10:30 p.m.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2021–0470 in the search box and click ''Search.'' Next, in the Document Type column, select ''Supporting & Related Material.''

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant Commander Stephanie Moore, Sector Upper Mississippi River Waterways Management Division, U.S. Coast Guard; telephone 314–269–2560, email *Stephanie.R.Moore@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
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)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because because it is impracticable. We must establish this safety zone by July 17, 2021, 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 respond to the potential safety hazards associated with the fireworks display.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port Sector Upper Mississippi River (COTP) has determined that potential hazards associated with a fireworks display on July 17, 2021, will be a safety concern for anyone on the Upper Mississippi River at Mile Marker (MM) 579.7. This rule resulted from a marine event notification stating that there will be a fireworks display to celebrate a wedding on the Upper Mississippi River. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone before, during, and after the fireworks display.

IV. Discussion of the Rule

This rule establishes a safety zone on Upper Mississippi River at 9 p.m. through 10:30 p.m. The safety zone will cover all navigable waters of the Upper Mississippi River at mile marker 579.7 approximately 1,000 feet northwest of the Ulysses S. Grant Memorial Hwy. The duration of the zone is intended to protect personnel, vessels, and the marine environment in these navigable waters before, during, and after a fireworks display. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard (USCG) assigned to units under the operational control of USCG Sector Upper Mississippi River.

The COTP or a designated representative will inform the public of the enforcement date and times for this safety zone, as well as any emergent safety concerns that may delay the enforcement of the zone.

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. 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).

This regulatory action determination is based on the size, location, and duration of the temporary safety zone. This action involves a fireworks display that impacts a one half mile stretch of the Upper Mississippi River on July 17, 2021, from 9 p.m. through 10:30 p.m. Moreover, the Coast Guard will issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 about the safety zone, mariners may seek permission to enter the zone.

B. Impact on Small Entities

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

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

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (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 call or email 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.

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, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone lasting one hour and thirty minutes that will prohibit entry on the Upper Mississippi River at MM 579.7, extending 500 feet from the left decending bank. It is categorically excluded from further review under paragraph L60 in Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email 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 continues to read as follows:

Authority: 46 U.S.C. 70034, 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.T08–0470 to read as follows:

§ 165.T08–0470 Safety Zone; Upper Mississippi River, Mile Marker 579.7, Dubuque, IA.

(a) *Location.* The following area is a safety zone: All navigable waters of the Upper Mississippi River at mile marker 579.7 extending 500 feet from the left decending bank approximately 1,000 feet northwest of the Ulysses S. Grant Memorial Hwy.

(b) *Enforcement period.* This section will be enforced on July 17, 2021, from 9 p.m. through 10:30 p.m.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23, persons and vessels are prohibited from entering the safety zone unless authorized by the Captain of the Port Sector Upper Mississippi River (COTP) or a designated representative. A *designated representative* is a commissioned, warrant, or petty officer of the U.S. Coast Guard (USCG) assigned to units under the operational control of USCG Sector Upper Mississippi River.

(2) Persons or vessels desiring to enter into or pass through the zone must request permission from the COTP or a designated representative. They may be contacted on VHF radio Channel 16 or by telephone at 314–269–2332.

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

(d) *Informational broadcasts.* The COTP or a designated representative will inform the public of the enforcement date and times for this safety zone, as well as any emergent safety concerns that may delay the enforcement of the zone through Broadcast Notice to Mariners (BNM) and or Local Notices to Mariners (LNMs).

Dated: July 13, 2021.

C.J. Barger,

Commander, Acting Captain of the Port, U.S. Coast Guard.

[FR Doc. 2021–15177 Filed 7–15–21; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF EDUCATION

34 CFR Chapter II

Final Waiver and Extension of the Project Periods for the Equity Assistance Centers Grant Program

AGENCY: Office of Elementary and Secondary Education (OESE), Department of Education.

ACTION: Final waiver and extension of project periods.

SUMMARY: The Secretary waives the requirements in the Education Department General Administrative Regulations that generally prohibit project periods exceeding five years and project period extensions involving the obligation of additional Federal funds. The waiver and extension enable four projects under Assistance Listing Number (ALN) 84.004D to receive funding for an additional period, not to exceed September 30, 2022.

DATES: The waiver and extension of the project periods are effective July 16, 2021.

FOR FURTHER INFORMATION CONTACT: Ed Vitelli, U.S. Department of Education, 400 Maryland Avenue SW, Room 3E106, Washington, DC 20202. Telephone: 202–453–6203. Email: *Edward.Vitelli@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Background

On July 18, 2016, the Department of Education (Department) published in the **Federal Register** (81 FR 46820) a notice inviting applications for four projects for fiscal year (FY) 2016 under the Equity Assistance Centers (EAC) program, authorized under title IV of the Civil Rights Act of 1964, 42 U.S.C. 2000c–2000c–2, 2000c–5.

The purpose of the EAC projects is to provide technical assistance (including training) at the request of school boards and other responsible governmental agencies in the preparation, adoption, and implementation of plans for the desegregation of public schools, and in the development of effective methods of coping with special educational problems occasioned by desegregation. Desegregation assistance, per 34 CFR 270.4, may include, among other activities: (1) Dissemination of information regarding effective methods of coping with special educational problems occasioned by desegregation; (2) assistance and advice in coping with

these problems; and (3) training designed to improve the ability of teachers, supervisors, counselors, parents, community members, community organizations, and other elementary or secondary school personnel to deal effectively with special educational problems occasioned by desegregation. All four EAC projects provide technical assistance (including training) in all four of the desegregation assistance areas: Race, sex, national origin, and religion. A table listing the FY 2016 EAC projects follows.

FY 2016 awards under ALN 84.004D	Project information
S004D160012	Mid-Atlantic Equity Consortium, Bethesda, MD, Project: Center for Education Equity.
S004D160005	Intercultural Development Research Association, San Antonio, TX, Project: IDRA Equity Assistance Center South.
S004D160011	Indiana University, Indianapolis, IN, Project: Midwest and Plains Equity Assistance Center.
S004D160004	Metropolitan State University of Denver, Denver, CO, Project: Western Educational Equity Assistance Center (WEEAC).

The EACs' project periods started on October 1, 2016 and will end on September 30, 2021.

On January 13, 2021, the Department published in the **Federal Register** (86 FR 2653) a notice inviting applications for an FY 2021 EAC competition (FY 2021 NIA).

However, as the effects of the COVID–19 pandemic unfolded and as learning recovery and school reentry efforts intensified, the Department sought to ensure the continuity of services provided by the FY 2016 EAC projects to vulnerable populations, schools, and school districts across the country. The Department also sought to ensure that the next EAC grant competition is, to the extent statutorily permitted, aligned with the Biden Administration's policy directives, including, for example, the Executive orders and memorandum included in the table below.

Title of policy directive	Date signed by President Biden
Executive Order 13985: Advancing Racial Equity and Support for Underserved Communities Through the Federal Government.	January 20, 2021.
Executive Order 13988: Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation	January 20, 2021.
Memorandum: Condemning and Combating Racism, Xenophobia, and Intolerance Against Asian Americans and Pacific Islanders in the United States.	January 26, 2021.
Executive Order 14012: Restoring Faith in Our Legal Immigration Systems and Strengthening Integration and Inclusion Efforts for New Americans.	February 2, 2021.

To ensure the continuity of services, and to allow the Department the opportunity to consider how best to align the EAC program with these Executive orders, to the extent statutorily permitted, the Department published on March 4, 2021 in the **Federal Register** (86 FR 12664) a notice withdrawing the FY 2021 NIA and cancelling the FY 2021 EAC competition. On March 25, 2021, the Department published in the **Federal Register** (86 FR 15829) a notice of proposed waiver and extension, in which it proposed to waive the requirements in the Education Department General Administrative Regulations that generally prohibit project periods exceeding five years and project period extensions involving the obligation of additional Federal funds. The proposed waiver and extension would enable the four FY 2016 EAC projects to receive funding for one additional period, not to exceed September 30, 2022.

Public Comment: In response to our invitation of public comment in the notice of proposed waiver and extension, one party submitted a responsive comment. An analysis of the comment follows.

Comment: One commenter stated that three of the four FY 2016 EAC projects should not receive a waiver and extension because they have not demonstrated transparency and results related to their work in the EAC program. With respect to one of these projects, the commenter cited transactions that it contended constituted conflicts of interest or created the appearance of fiscal impropriety.

Discussion: The Department encourages the commenter to visit the Department's EAC performance web page, located at *https://oese.ed.gov/offices/office-of-formula-grants/program-and-grantee-support-services/training-and-advisory-services-equity-assistance-centers/performance-training-and-advisory-services-equity-assistance-centers/,* to find current performance data for the four FY 2016 EAC projects. In accordance with the applicable requirements for continuation funding in 34 CFR 75.253, the Department monitored and reviewed the performance of the FY 2016 EAC projects, which, included, where appropriate, examining allegations of potential conflicts of interest and fiscal impropriety, and determined that all FY 2016 EAC projects demonstrated that they made substantial progress in achieving the goals and objectives of their grants, and in meeting their performance measures and targets within the scope of their approved projects. The Department also notes that all FY 2016 EAC projects have made their most recent single audits publicly available, in accordance with Federal grant regulations. Accordingly, the Department has concluded that continuation of the projects is in the best interest of the Federal Government.

Changes: None.

Final Waivers and Extensions

The Department believes it is in the best interest of the public to extend the current EAC project periods for one year. Correspondingly, the Secretary waives the requirements in 34 CFR 75.250, which prohibit project periods exceeding five years, as well as the requirements in 34 CFR 75.261(a) and (c)(2), which permit the extension of a project period only if the extension does not involve the obligation of additional Federal funds. The waiver will permit the Department to issue a FY 2021 continuation award to each of the four

currently funded EAC projects, as estimated in the table below.

Project information	Estimated amount
Mid-Atlantic Equity Consortium, Project: Center for Education Equity	$1,640,562
Intercultural Development Research Association, Project: IDRA Equity Assistance Center South	1,641,567
Indiana University, Project: Midwest and Plains Equity Assistance Center	1,607,310
Metropolitan State University of Denver, Project: Western Educational Equity Assistance Center (WEEAC)	1,642,170

Please note that the Department is not bound by the estimates in this table.

Any activities carried out under these continuation awards must be consistent with the scope and objectives of the grantees' applications as approved in the FY 2016 competition. The requirements for continuation awards are set forth in 34 CFR 75.253.

Regulatory Flexibility Act Certification

The Secretary certifies that the waiver and extension of the project period would not have a significant economic impact on a substantial number of small entities. The only entities that would be affected by the waiver and extension of the project period are the current grantees. The Secretary certifies that the waiver and extension would not have a significant economic impact on these entities, because the extension of an existing project period imposes minimal compliance costs, and the activities required to support the additional year of funding would not impose additional regulatory burdens or require unnecessary Federal supervision.

Paperwork Reduction Act of 1995

This notice of final waiver and extension of the project period does not contain any information collection requirements.

Intergovernmental Review

This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance. This document provides notification of our specific plans and actions for this program.

Accessible Format: On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc, or other accessible format.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at *www.govinfo.gov.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF, you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Ian Rosenblum,

Deputy Assistant Secretary for Policy and Programs Delegated the Authority to Perform the Functions and Duties of the Assistant Secretary, Office of Elementary and Secondary Education.

[FR Doc. 2021–15162 Filed 7–15–21; 8:45 am]

BILLING CODE 4000–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[EPA–HQ–OAR–2018–0114; FRL–10025–34–OAR]

Removal of the Federal Reformulated Gasoline Program From the Southern Maine Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notification of final action on petition.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action in announcing its approval of the petition by Maine to opt-out of the Federal reformulated gasoline (RFG) program and remove the requirement to sell Federal RFG for York, Cumberland, Androscoggin, Sagadahoc, Kennebec, Knox and Lincoln counties (the Southern Maine Area), which are part of the Portland and Midcoast Ozone Maintenance Areas for the 1997 ozone national ambient air quality standard (NAAQS). EPA has determined that this removal of the Federal RFG program for the Southern Maine Area is consistent with the applicable provisions of the Clean Air Act (CAA) and EPA's regulations.

DATES: The effective date for removal of the Southern Maine Area from the Federal RFG program is September 30, 2021.

FOR FURTHER INFORMATION CONTACT: Mark Coryell, Office of Transportation and Air Quality, U.S. Environmental Protection Agency, 2000 Traverwood, Ann Arbor, MI 48105; telephone number: (734) 214–4446; email address: *coryell.mark@epa.gov* or Rudy Kapichak, Office of Transportation and Air Quality, U.S. Environmental Protection Agency, 2000 Traverwood, Ann Arbor, MI 48105; telephone number: 734–214–4574; email address: *kapichak.rudolph@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

Entities potentially affected by this final action are fuel producers and distributors who do business in the Southern Maine Area.

Examples of potentially regulated entities	NAICS [1] codes
Petroleum refineries	324110 424710
Gasoline Marketers and Distributors	424720
Gasoline Retail Stations	447110
Gasoline Transporters	484220 484230

The above table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. The table lists the types of entities of which EPA is aware that potentially could be affected

[1] North American Industry Classification System.

by this final action. Other types of entities not listed on the table could also be affected by this final action. To determine whether your organization could be affected by this final action, you should carefully examine the regulations in 40 CFR part 1090. If you have questions regarding the applicability of this action to a particular entity, see the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

B. How can I get copies of this document and other related information?

EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2021–0243. All documents in the docket are listed on the *www.regulations.gov* website. Although listed in the index, some information may not be publicly available, *e.g.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically through *www.regulations.gov.*

II. Background

A. What is the Federal RFG program?

The 1990 CAA Amendments (CAA) established specific requirements for the Federal RFG program to reduce ozone levels in certain areas in the country experiencing ground-level ozone or smog problems by reducing vehicle emissions of compounds that form ozone, specifically volatile organic compounds (VOCs). CAA section 211(k)(5) directed EPA to issue regulations that specify how gasoline can be ''reformulated'' to result in significant reductions in vehicle emissions of ozone-forming and toxic air pollutants relative to the 1990 baseline fuel, and to require the use of such reformulated gasoline in certain ''covered areas.'' The CAA defined certain nonattainment areas as ''covered areas'' that are required to use RFG and provided other areas with an ability to ''opt-in'' to the RFG program. CAA section 211(k)(6) provides an opportunity for an area classified as a Marginal, Moderate, Serious, or Severe ozone nonattainment area, or which is in the ozone transport region established by CAA section 184(a), to ''opt-in'' to the RFG program upon application by the governor of the state (or authorized representative) and subsequent action by EPA.

Similar to other RFG covered areas, RFG opt-in areas are subject to the prohibition in section 211(k)(5) on the sale or dispensing by any person of conventional (non-RFG) gasoline to ultimate consumers in the covered area. The prohibition also includes the sale or dispensing by any refiner, blender, importer, or marketer of conventional gasoline for resale in any covered areas, without segregating the conventional gasoline from RFG and clearly marking conventional gasoline as not for sale to ultimate consumers in a covered area. EPA first published regulations for the RFG program on February 16, 1994 (59 FR 7716).

On July 23, 2013, the Governor of Maine formally requested, pursuant to CAA section 211(k)(6)(B), that the U.S. Environmental Protection Agency (EPA) extend the requirement for the sale of RFG to the Southern Maine Area beginning on May 1, 2014. The Maine legislature subsequently enacted an emergency law, Public Law 2013 c.452, effective March 6, 2014, to postpone the requirement for the sale of RFG in the Southern Maine Area until June 1, 2015. Pursuant to that legislation, the Commissioner of the Maine DEP submitted a request to the EPA on March 10, 2014, modifying Maine's request for the implementation date for the sale of RFG in the Southern Maine Area to coincide with the new June 1, 2015 effective date. A current listing of the RFG covered areas and a summary of RFG requirements can be found on EPA's website at: *https://www.epa.gov/gasoline-standards/reformulated-gasoline.*

B. RFG Opt-Out Procedures

The RFG opt-out regulations (40 CFR1090.290—Changes to RFG covered areas and procedures for opting out of RFG) provide the process and criteria for a reasonable transition out of the RFG program if a state decides to opt-out.[2] These RFG opt-out regulations provide that the governor of the state must submit a petition to the Administrator requesting to opt-out of the RFG program. The petition must include specific information on how, if at all, the state has relied on RFG in a proposed or approved state implementation plan (SIP) or plan revision and, if RFG is relied upon, how the SIP will be revised to reflect the state's opt-out from RFG. The opt-out regulations also provide that EPA will notify the state in writing of the Agency's action on the petition and the date the opt-out becomes effective (*i.e.,* the date RFG is no longer required in the affected opt-in area) when the petition is approved. The opt-out regulations also provide that EPA will publish a **Federal Register** notice announcing the approval of any opt-out petition and the effective date of such opt-out. If a SIP revision is required, the effective date of EPA's approval of the opt-out can be no less than 90 days from the effective date of EPA's approval of the revision to the SIP that removes RFG as a control measure (40 CFR 1090.290(d)).

EPA determined in the RFG ''Opt-out Rule'' that it would not be necessary to conduct a separate rulemaking for each future opt-out request (61 FR 35673 at 35675 (July 8, 1996)). EPA established a petition process to address, on a case-by-case basis, future individual state requests to opt-out of the RFG program. The RFG opt-out regulations establish clear and objective criteria for EPA to apply. These regulatory criteria address when a state's petition is complete and the appropriate transition time for opting out. As EPA stated in the preamble to the RFG Opt-out Rule, this application of regulatory criteria on a case-by-case basis to individual opt-out requests does not require notice-and-comment rulemaking, either under CAA section 307(d) or the Administrative Procedure Act. Thus, in this action, EPA is applying the criteria and following the procedures specified in the RFG opt-out regulations to approve Maine's petition.

C. Opt-Out of RFG for the Southern Maine Area

On August 20, 2020, Maine submitted a petition to the EPA Administrator requesting to opt-out from the RFG program for York, Cumberland, Androscoggin, Sagadahoc, Kennebec, Knox and Lincoln counties (the Southern Maine Area), which are part of the Portland and Midcoast Ozone Maintenance Areas for the 1997 ozone NAAQS. EPA finds that Maine has provided the required information in the petition, per 40 CFR 1090.290(d). In order to fulfill the requirements of the RFG opt-out regulations, on August 20, 2020, Maine submitted a revision to its maintenance plan for the Southern Maine Area to remove the emissions reductions associated with the use of RFG in this area and to demonstrate that the RFG opt-out would not interfere with the area's ability to attain or maintain the 1997, 2008 and 2015 ozone NAAQS and any other NAAQS as

[2] Pursuant to CAA sections 211(c) and (k) and 301(a), EPA promulgated regulations at 40 CFR 80.72 to provide criteria and general procedures for states to opt-out of the RFG program where the state had previously voluntarily opted into the program. The regulations were initially adopted on July 8, 1996 (61 FR 35673) (the RFG ''Opt-out Rule''); were revised on October 20, 1997 (62 FR 54552) and were subsequently revised on December 4, 2020 (85 FR 78412).

required by CAA section 110(l) (40 CFR1090.290(d)). EPA published a proposed approval of the SIP revision on March 25, 2021 (86 FR 15844) and a final approval of the SIP revision on June 2, 2021 (86 FR 29520), with an effective date of July 2, 2021. The RFG opt-out regulations provide that the opt-out effective date shall be no less than 90 days from the EPA SIP approval effective date (40 CFR 1090(d)(2)(ii)). EPA is unaware of any reason that the effective date should be postponed, and therefore, is establishing an opt-out effective date of September 30, 2021 for the Southern Maine Area.

As provided by the RFG Opt-out Rule and the opt-out regulations in 40 CFR 1090.290(e), EPA will publish a final rule to remove the seven counties in the Southern Maine Area from the list of RFG covered areas in 40 CFR 1090.285(d) after the effective date of the opt-out. EPA believes that completing this ministerial exercise to revise the list of covered areas in the Code of Federal Regulations after the effective date of the opt-out allows the opt-out to become effective within the timeframe described in 40 CFR 1090.290(d), and allows EPA to keep the lists of RFG covered areas in 40 CFR 1090.285 up to date.

III. Action

EPA is approving Maine's petition because it contained the information required by 40 CFR 1090(d) in its petition to EPA to opt-out of the RFG program and revised the approved maintenance plan for the 1997 ozone NAAQS for the Southern Maine Area to remove the emissions reductions associated with RFG. EPA is also determining the opt-out effective date by applying the criteria in 40 CFR 1090.290(d). As discussed in Section II.A. above, the RFG opt-out regulations require that if a state included RFG as a control measure in an approved SIP, the state must revise the SIP, reflecting the removal of RFG as a control measure before an opt-out can be effective, and the opt-out cannot be effective less than 90 days after the effective date of the approval of the SIP revision. EPA published a final approval of Maine's maintenance plan revision and noninterference demonstration on June 2, 2021 (86 FR 29520), with an effective date of July 2, 2021.

In summary, EPA is notifying the public that it has applied its regulatory criteria to approve the petition by Maine to opt-out of the RFG program for the Southern Maine Area of the Portland and Midcoast ozone maintenance area for the 1997 ozone NAAQS and is thereby removing the prohibition on the sale of conventional gasoline in that area as of September 30, 2021 (40 CFR 1090.290(d)). This opt-out effective date applies to retailers, wholesale purchasers, consumers, refiners, importers, and distributors.

Michael S. Regan,

Administrator.

[FR Doc. 2021–15127 Filed 7–15–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[EPA–HQ–OAR–2020–0292; FRL–7822–01–OAR]

RIN 2060–AU79

Redesignation of Certain Unclassifiable Areas for the 2010 1-Hour Sulfur Dioxide (SO_2) Primary National Ambient Air Quality Standard (NAAQS)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is redesignating the Lancaster County, Nebraska and Milam County, Texas unclassifiable areas initially designated during the EPA's Round 2 air quality designations for the 2010 1-Hour Sulfur Dioxide (SO_2) Primary National Ambient Air Quality Standard (NAAQS). Specifically, the EPA now has sufficient information to determine that these unclassifiable areas in Nebraska and Texas are attaining the 2010 1-hour SO_2 primary NAAQS. Therefore, the EPA is redesignating these areas to attainment/unclassifiable for the 2010 1-hour SO_2 primary NAAQS. The EPA is also approving these states' requests to redesignate the areas.

DATES: This final rule is effective on August 16, 2021.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2020–0292. All documents in the docket are listed in the *https://www.regulations.gov.* Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form.

Out of an abundance of caution for members of the public and our staff, the EPA Docket Center and Reading Room are currently closed to the public, with limited exceptions, to reduce the risk of transmitting COVID–19. Our Docket Center staff will continue to provide remote customer service via email, phone, and webform. For further information on the EPA Docket Center services and the current status, please visit us online at *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: For general questions concerning this action, please contact Gobeail McKinley, U.S. EPA, Office of Air Quality Planning and Standards, Air Quality Policy Division, C539–04, Research Triangle Park, NC 27709, by email at *mckinley.gobeail@epa.gov.* The following EPA Regional office contacts can answer questions regarding the specific areas being redesignated:

U.S. EPA REGIONAL OFFICE CONTACTS:

Regional office	Affected state	Contact	Telephone	Email
Region VI	Texas	Robert Imhoff	(214) 665–7262	*imhoff.robert@epa.gov.*
Region VII	Nebraska	Will Stone	(913) 551–7714	*stone.william@epa.gov.*

Most EPA offices are closed to reduce the risk of transmitting COVID–19, but staff remain available via telephone and email. The EPA encourages the public to review information related to the redesignations at *https://www.epa.gov/sulfur-dioxide-designations* and in the public docket for these SO_2 redesignations at *https://www.regulations.gov* under Docket ID No. EPA–HQ–OAR–2020–0292.

SUPPLEMENTARY INFORMATION: Throughout this document ''we,'' ''us,'' or ''our'' means the EPA.

I. Background

After the promulgation of a new or revised NAAQS, the EPA is required to designate all areas of the country, pursuant to section 107(d)(1)–(2) of the Clean Air Act (CAA). For the 2010

1-hour SO_2 primary NAAQS,[1] designations are based on the EPA's application of the nationwide analytical approach to, and technical assessment of, the weight of evidence for each area, including but not limited to available air quality monitoring data and air quality modeling results. Pursuant to a March 2, 2015, consent decree and court-ordered schedule, the EPA finalized a second set of initial area designations for the 2010 1-hour SO_2 NAAQS in 2016 (also called, ''Round 2''). For the Round 2 designations, the EPA designated the entirety of Lancaster County in Nebraska and the entirety of Milam County in Texas as unclassifiable. The Round 2 intended designations for Lancaster County, Nebraska and Milam County, Texas were published on March 1, 2016. (81 FR 10563). The final designation for Lancaster County, Nebraska published on July 12, 2016. (81 FR 45039). The final designation for Milam County, Texas was published on December 13, 2016, as part of a supplement to the larger Round 2 designation action. (81 FR 89870). Detailed rationale, analyses, and other information supporting the designation for these two areas can be found in the intended and final Round 2 designations' technical support documents for Nebraska and Texas, respectively. These Round 2 documents, along with all other supporting materials for the initial 2010 1-hour SO_2 primary NAAQS designations for these areas, can be found on the EPA's SO_2 designations website.[2]

On May 6, 2020, Nebraska submitted a letter [3] to the EPA requesting that the entirety of Lancaster County be redesignated to attainment/unclassifiable based on newly available monitoring information, which demonstrates attainment of the 2010 1-hour SO_2 NAAQS. On June 26, 2020, Texas submitted a letter [4] to the EPA requesting that the entirety of Milam County be redesignated to attainment/unclassifiable based on newly available monitoring information, which demonstrates attainment of the 2010 1-hour SO_2 NAAQS.

In a notice of proposed rulemaking (NPRM) published on September 2, 2020 (85 FR 54517), the EPA proposed to redesignate to attainment/unclassifiable the unclassifiable portions of Franklin and St. Charles Counties in Missouri; the entirety of Lancaster County in Nebraska; the entirety of Gallia County and the unclassifiable portion of Meigs County in Ohio; and the entirety of Milam County in Texas. As discussed in the NPRM, this final action is based on the currently available monitoring data for two of the areas included in that NPRM that demonstrate attainment of the 2010 1-hour SO_2 primary NAAQS. Additionally, in that NPRM, the EPA proposed to approve requests for redesignation from the states of Nebraska, Ohio, and Texas for the areas subject to the notice. The 30-day public comment period for the NPRM closed on October 2, 2020. The EPA did not receive any comments specific to the proposed redesignations of Lancaster County in Nebraska and Milam County in Texas. This action only addresses the redesignation of Lancaster County, Nebraska and Milam County, Texas. The areas in Missouri and Ohio received adverse comments and will be addressed in separate rulemaking actions. The details of each state's submittal and the rationale for the EPA's actions are further explained in the NPRM.

II. Final Action

In this action, the EPA is taking final action to redesignate Lancaster County, Nebraska and Milam County, Texas to attainment/unclassifiable for the 2010 1-hour SO_2 primary NAAQS pursuant to CAA section 107(d)(3)(D). The EPA is also taking final action to approve a request for redesignation from unclassifiable to attainment/unclassifiable for the 2010 SO_2 primary NAAQS from the state of Nebraska dated May 6, 2020, and from the state of Texas dated June 26, 2020. This action changes the legal designation for these areas, found at 40 CFR part 81, from unclassifiable to attainment/unclassifiable for the 2010 1-hour SO_2 primary NAAQS.

III. Environmental Justice Concerns

When the EPA establishes a new or revised NAAQS, the CAA requires the EPA to designate all areas of the U.S. as either nonattainment, attainment, or unclassifiable. This action addresses redesignation determinations for two areas for the 2010 SO_2 NAAQS. Under CAA section 107(d)(3), the redesignation of an area to attainment/unclassifiable is an action that affects the status of a geographical area and does not impose any additional regulatory requirements on sources beyond those imposed by state law. A redesignation to attainment/unclassifiable does not in and of itself create any new requirements. Accordingly, this final action merely redesignates areas to attainment/unclassifiable and does not impose additional requirements. Area redesignations address environmental justice concerns by ensuring that the public is properly informed about the air quality in an area. In locations where air quality does not meet the NAAQS, the CAA requires relevant state authorities to initiate appropriate air quality management actions to ensure that all those residing, working, attending school, or otherwise present in those areas are protected, regardless of minority and economic status.

IV. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is exempt from the Office of Management and Budget (OMB) and was, therefore, not submitted to OMB for review.

B. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the PRA. This action is a redesignation of two areas to attainment/unclassifiable is an action that affects the status of a geographical area and does not impose any additional regulatory requirements on sources beyond those imposed by state law. Therefore, this final rulemaking does not impose any new information collection burden under the PRA.

C. Regulatory Flexibility Act (RFA)

This redesignation action under CAA section 107(d) is not subject to the RFA. The RFA applies only to rules subject to notice-and-comment rulemaking requirements under the Administrative Procedures Act (APA), 5 U.S.C. 553, or any other statute. Redesignations under CAA section 107(d) are not among the list of actions that are subject to the notice-and-comment rulemaking requirements of CAA section 307(d).

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538 and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local, or tribal governments or the private sector.

[1] The 2010 1-hour SO_2 NAAQS is met when the design value is 75 parts per billion (ppb) or less.

[2] *https://www.epa.gov/sulfur-dioxide-designations.*

[3] *See* letter dated May 6, 2020, from Pete Ricketts, Governor of the State of Nebraska to Jim Gilliford, Regional Administrator, EPA Region 7. This letter is included in the docket for this action.

[4] *See* letter dated June 26, 2020, from Toby Baker, Executive Director of the Texas Commission of Environmental Quality to Ken McQueen, Regional Administrator, EPA Region 6. This letter is included in the docket for this action.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. The division of responsibility between the federal government and the states for purposes of implementing the NAAQS is established under the CAA.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000) because no tribal lands are located within the areas covered in this action and the redesignation does not create new requirements. The EPA notes this final redesignation action will not impose substantial direct costs on Tribal governments or preempt Tribal law.

G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of ''covered regulatory action'' in section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution or Use

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

The EPA believes that this action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994). The documentation for this determination is contained in Section III of this preamble, ''Environmental Justice Concerns.''

K. Congressional Review Act (CRA)

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

L. Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 14, 2021. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* CAA section 307(b)(2).

V. Statutory Authority

The statutory authority for this action is provided by 42 U.S.C. 7401, *et seq.*

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, Intergovernmental relations, Sulfur oxides.

Michael S. Regan,

Administrator.

For the reasons stated in the preamble, the EPA amends title 40 CFR part 81as set forth below:

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

■ 1. The authority citation for part 81 continues to read as follows:

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

■ 2. In § 81.328, the table titled, ''Nebraska–2010 Sulfur Dioxide NAAQS [Primary]'' is amended by revising the entry for ''Lancaster County'' and redesignating it alplabetically under ''Statewide'' before the entry for ''Lincoln County'' to read as follows:

§ 81.328 Nebraska.

* * * * *

NEBRASKA—2010 SULFUR DIOXIDE NAAQS

[Primary]

Designated area [1]	Designation	
	Date [2]	Type
* * * *	* *	*
Lancaster County	August 16, 2021	Attainment/Unclassifiable.
* * * *	* *	*

[1] Includes any Indian country in each county or area, unless otherwise specified. The EPA is not determining the boundaries of any area of Indian country in this table, including any area of Indian country located in the larger designation area. The inclusion of any Indian country in the designation area is not a determination that the state has regulatory authority under the Clean Air Act for such Indian country.

[2] This date is April 9, 2018, unless otherwise noted.

* * * * *

■ 3. In § 81.344, the table titled ''Texas—2010 Sulfur Dioxide NAAQS [Primary]'' is amended by revising the entry for ''Milam County, TX'' to read as follows:

§ 81.344 Texas.

* * * * *

TEXAS—2010 SULFUR DIOXIDE NAAQS

[Primary]

Designated area	Designation	
	Date	Type
* * * *	* *	*
Milam County, TX	August 16, 2021	Attainment/Unclassifiable.
* * * *	* *	*

[1] Includes any Indian country in each county or area, unless otherwise specified. The EPA is not determining the boundaries of any area of Indian country in this table, including any area of Indian country located in the larger designation area. The inclusion of any Indian country in the designation area is not a determination that the state has regulatory authority under the Clean Air Act for such Indian country.

[2] This date is April 9, 2018, unless otherwise noted.

* * * * *

[FR Doc. 2021–14376 Filed 7–15–21; 8:45 am]

BILLING CODE 6560–50–P

Proposed Rules

Federal Register
Vol. 86, No. 134
Friday, July 16, 2021

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

DEPARTMENT OF ENERGY

10 CFR Part 430

[EERE–2017–BT–STD–0009]

RIN 1904–AD79

Energy Conservation Program: Energy Conservation Standards for Certain Commercial and Industrial Equipment; Early Assessment Review; Walk-In Coolers and Freezers

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

ACTION: Request for information.

SUMMARY: The U.S. Department of Energy (''DOE'') is undertaking an early assessment review to evaluate whether to amend the energy conservation standards for walk-in coolers and freezers (''walk-ins'' or ''WICFs''). Specifically, through this request for information (''RFI''), DOE seeks data and information to evaluate whether amended energy conservation standards would result in significant savings of energy; be technologically feasible; and be economically justified. DOE welcomes written comments from the public on any subject within the scope of this document (including those topics not specifically raised in this RFI), as well as the submission of data and other relevant information concerning this early assessment review.

DATES: Written comments and information are requested and will be accepted on or before August 16, 2021.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at *www.regulations.gov.* Follow the instructions for submitting comments. Alternatively, interested persons may submit comments, identified by docket number EERE–2017–BT–STD–0009, by any of the following methods:

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

2. *Email:* to *ApplianceStandardsQuestions@ee.doe.gov.* Include docket number EERE–2017–BT–STD–0009 in the subject line of the message.

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

Although DOE has routinely accepted public comment submissions through a variety of mechanisms, including the Federal eRulemaking Portal, email, postal mail, or hand delivery/courier, the Department has found it necessary to make temporary modifications to the comment submission process in light of the ongoing Covid–19 pandemic. DOE is currently suspending receipt of public comments via postal mail and hand delivery/courier. If a commenter finds that this change poses an undue hardship, please contact Appliance Standards Program staff at (202) 586–1445 to discuss the need for alternative arrangements. Once the Covid–19 pandemic health emergency is resolved, DOE anticipates resuming all of its regular options for public comment submission, including postal mail and hand delivery/courier.

Docket: The docket for this activity, which includes **Federal Register** notices, comments, and other supporting documents/materials, is available for review at *https://www.regulations.gov.* All documents in the docket are listed in the *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://www.regulations.gov/#!docketDetail;D=EERE-2017-BT-STD-0009.* The docket web page contains instructions on how to access all documents, including public comments, in the docket. See section III for information on how to submit comments through *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT:

Dr. Stephanie Johnson, 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) 287–1943. Email: *ApplianceStandardsQuestions@ee.doe.gov.*

Mr. Michael Kido, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–8145. Email: *Michael.Kido@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.*

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I. Introduction

DOE has established an early assessment review process to conduct a more focused analysis to evaluate, based on statutory criteria, whether a new or amended energy conservation standard is warranted. Based on the information received in response to the RFI and DOE's own analysis, DOE will determine whether to proceed with a rulemaking for a new or amended energy conservation standard. If DOE makes an initial determination that a new or amended energy conservation standard would satisfy the applicable statutory criteria or DOE's analysis is inconclusive, DOE would undertake the preliminary stages of a rulemaking to issue a new or amended energy conservation standard. If DOE makes an initial determination based upon available evidence that a new or amended energy conservation standard

would not meet the applicable statutory criteria, DOE would engage in notice and comment rulemaking before issuing a final determination that new or amended energy conservation standards are not warranted.

A. Authority

The Energy Policy and Conservation Act, as amended (''EPCA''),[1] among other things, authorizes DOE to regulate the energy efficiency of a number of consumer products and certain industrial equipment. (42 U.S.C. 6291–6317) Title III, Part C[2] of EPCA, added by Public Law 95–619, Title IV, section 441(a) (42 U.S.C. 6311–6317, as codified), established the Energy Conservation Program for Certain Industrial Equipment, which sets forth a variety of provisions designed to improve energy efficiency. This equipment includes walk-in coolers and freezers, the subject of this document. (42 U.S.C. 6311(1)(G))

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 EPCA include definitions (42 U.S.C. 6311), test procedures (42 U.S.C. 6314), labeling provisions (42 U.S.C. 6315), energy conservation standards (42 U.S.C. 6313), and the authority to require information and reports from manufacturers (42 U.S.C. 6316(a); 42 U.S.C. 6299).

Federal energy efficiency requirements for covered equipment established under EPCA generally supersede State laws and regulations concerning energy conservation testing, labeling, and standards. (42 U.S.C. 6316(a) and (b); 42 U.S.C. 6297) DOE may, however, grant waivers of Federal preemption in limited instances for particular State laws or regulations, in accordance with the procedures and other provisions set forth under 42 U.S.C. 6316(a) (applying the preemption waiver provisions of 42 U.S.C. 6297).

DOE must follow specific statutory criteria for prescribing new or amended standards for covered equipment. EPCA requires that any new or amended energy conservation standard prescribed by the Secretary of Energy (''Secretary'') be designed to achieve the maximum improvement in energy efficiency that is technologically feasible and economically justified. (42 U.S.C. 6316(a); 42 U.S.C. 6295(o)(2)(A)) The Secretary may not prescribe an amended or new standard that will not result in significant conservation of energy, or is not technologically feasible or economically justified. (42 U.S.C. 6316(a); 42 U.S.C. 6295(o)(3))

EPCA specifies standards for walk-ins. First, all walk-in doors narrower than 3 feet 9 inches and shorter than 7 feet must have automatic door closers that firmly close all walk-in doors that have been closed to within 1 inch of full closure, and must also have strip doors, spring hinged doors, or other methods of minimizing infiltration when doors are open. Additionally, walk-ins must contain wall, ceiling, and door insulation of at least R–25 for coolers and R–32 for freezers, excluding glazed portions of doors and structural members, and floor insulation of at least R–28 for freezers. Walk-in evaporator fan motors of under 1 horsepower (''hp'') and less than 460 volts must be electronically commutated motors (brushless direct current motors) or three-phase motors, and walk-in condenser fan motors of under 1 horsepower must use permanent split capacitor motors, electronically commutated motors, or three-phase motors. Interior light sources must have an efficacy of 40 lumens per watt or more, including any ballast losses; less-efficacious lights may only be used in conjunction with a timer or device that turns off the lights within 15 minutes of when the walk-in is unoccupied. See 42 U.S.C. 6313(f)(1).

Second, walk-ins have requirements related to electronically commutated motors used in them. See 42 U.S.C. 6313(f)(2)). Specifically, in those walk-ins that use an evaporator fan motor with a rating of under 1 hp and less than 460 volts, that motor must be either a three-phase motor or an electronically commutated motor.[3] (42 U.S.C. 6313(f)(2)(A))

Third, EPCA requires that walk-in freezers with transparent reach-in doors must have triple-pane glass with either heat-reflective treated glass or gas fill for doors and windows. Transparent walk-in cooler doors must have either double-pane glass with heat-reflective treated glass and gas fill or triple-pane glass with heat-reflective treated glass or gas fill. (42 U.S.C. 6313(f)(3)(A)–(B)) For walk-ins with transparent reach-in doors, EPCA also prescribes specific anti-sweat heater-related requirements: Walk-ins without anti-sweat heater controls must have a heater power draw of no more than 7.1 or 3.0 watts per square foot of door opening for freezers and coolers, respectively. Walk-ins with anti-sweat heater controls must either have a heater power draw of no more than 7.1 or 3.0 watts per square foot of door opening for freezers and coolers, respectively, or the anti-sweat heater controls must reduce the energy use of the heater in a quantity corresponding to the relative humidity of the air outside the door or to the condensation on the inner glass pane. See 42 U.S.C. 6313(f)(3)(C)–(D).

Additionally, EPCA prescribed two cycles of WICF-specific rulemakings; the first to establish performance-based standards that achieve the maximum improvement in energy that the Secretary determines is technologically feasible and economically justified, and the second to determine whether to amend those standards. (42 U.S.C. 6313(f)(4) and (5)) EPCA also requires that, not later than 6 years after the issuance of any final rule establishing or amending a standard, DOE evaluate the energy conservation standards for each type of covered equipment, including those at issue here, and publish either a notification of determination that the standards do not need to be amended, or a notice of proposed rulemaking (''NOPR'') that includes new proposed energy conservation standards (proceeding to a final rule, as appropriate). (42 U.S.C. 6316(a); 42 U.S.C. 6295(m)(1)) DOE is publishing this RFI to inform its decision consistent with its obligations under EPCA.

B. Rulemaking History

On June 3, 2014, DOE published a final rule (''June 2014 ECS final rule'') establishing performance-based standards for the components of a walk-in: Doors, panels, and refrigeration systems. 79 FR 32050. The standards were expressed in terms of daily energy consumption for walk-in doors, R-value for walk-in panels, and annual walk-in energy factor (''AWEF'') for walk-in refrigeration systems. *Id.*

After publication of the June 2014 ECS final rule, the Air-Conditioning, Heating and Refrigeration Institute (''AHRI'') and Lennox International, Inc. (''Lennox''), a manufacturer of walk-in refrigeration systems, filed petitions for review of DOE's final rule and DOE's subsequent denial of a petition for reconsideration of the rule (79 FR 59090 (October 1, 2014)) with the United States Court of Appeals for the Fifth Circuit. *Lennox Int'l* v. *Dep't of Energy,* Case No. 14–60535 (5th Cir.). As a result

[1] All references to EPCA in this document refer to the statute as amended through the Energy Act of 2020, Public Law 116–260 (Dec. 27, 2020).

[2] For editorial reasons, upon codification in the U.S. Code, Part C was redesignated Part A–1.

[3] The requirement regarding electronically commutated motors was predicated on DOE determining that more than one manufacturer offered such motors for sale. See 42 U.S.C. 6313(f)(2)(A). DOE documented this determination in Docket EERE–2008–BT–STD–0015–0072 (available at *www.regulations.gov/document/EERE-2008-BT-STD-0015-0072*).

of this litigation, a settlement agreement was reached to address, and a controlling order from the Fifth Circuit vacated, standards for six of the refrigeration system equipment classes—the two energy conservation standards applicable to multiplex condensing refrigeration systems (subsequently re-named as ''unit coolers'') operating at medium and low temperatures and the four energy conservation standards applicable to dedicated condensing refrigeration systems operating at low temperatures.[4] After the Fifth Circuit issued its order, DOE established a Working Group to negotiate energy conservation standards to replace the six vacated standards. 80 FR 46521 (August 5, 2015). The Working Group assembled their recommendations into a Term Sheet (See Docket EERE–2015–BT–STD–0016–0056) [5] that was presented to, and approved by, the Appliance Standards and Rulemaking Federal Advisory Committee (''ASRAC'') on December 18, 2015.

The Term Sheet contained recommended energy conservation standards to replace the six vacated standards, definitions for a number of WICF-related terms, and test procedure changes to implement the recommended energy conservation standards. Consequently, DOE initiated both an energy conservation standard rulemaking and a test procedure rulemaking in 2016 to implement these recommendations. The Term Sheet also recommended additional specific test procedure changes for future rulemaking to help improve its ability to be fully representative of walk-in energy use.

On July 10, 2017, DOE published a final rule adopting energy conservation standards for the six classes of walk-in refrigeration systems for which the prior standards were vacated. 82 FR 31808 (''July 2017 ECS final rule''). The energy conservation standards established in the July 2017 ECS final rule were consistent with those recommended by the Working Group and approved by ASRAC. 82 FR 31808, 31878. The current energy conservation standards for walk-ins are codified at 10 CFR 431.306.

II. Request for Information

DOE is publishing this RFI to collect data and information during the early assessment review to inform its decision, consistent with its obligations under EPCA, as to whether the Department should proceed with an energy conservation standards rulemaking. DOE has identified certain topics for which information and data are requested to assist in the evaluation of the potential for amended energy conservation standards. DOE also welcomes comments on other issues relevant to its early assessment that may not specifically be identified in this document.

A. Scope and Equipment Classes

This RFI covers equipment meeting the walk-in definition codified in 10 CFR 431.302: An enclosed storage space (*i.e.,* box) refrigerated to temperatures (1) above 32 °F for walk-in coolers and (2) at or below 32 °F for walk-in freezers, that can be walked into, and has a total chilled storage area of less than 3,000 square feet, but excluding equipment designed and marketed exclusively for medical, scientific, or research purposes. 10 CFR 431.302. (See also 42 U.S.C. 6311(20)) DOE has codified and established energy conservation standards applicable to the principal components that make up a walk-in (*i.e.,* doors, panels, and refrigeration systems). In addition to the prescriptive requirements for walk-ins established by EPCA (42 U.S.C. 6313(f)(3)(A)–(D)) and codified at 10 CFR 431.306(a)–(b), DOE established performance-based energy conservation standards for doors and refrigeration systems. 10 CFR 431.306(c)–(e).

When evaluating and establishing energy conservation standards, DOE may divide covered equipment into classes by the type of energy used, or by capacity or other performance-related features that would justify a different standard. (42 U.S.C. 6316(a); 42 U.S.C. 6295(q)(1)) In making a determination whether capacity or another performance-related feature justifies a different standard, DOE must consider such factors as the utility of the feature to the consumer and other factors DOE deems appropriate. *Id.*

DOE established standards for walk-in doors based on (1) whether they are used in a walk-in cooler (*i.e.,* medium-temperature) or walk-in freezer (*i.e.,* low-temperature), (2) whether they are display or non-display doors,[6] and (3) if non-display, whether they are passage or freight doors.[7] 10 CFR 431.306(c)–(d). Table II.1 presents the equipment classes for all walk-in doors.

DOE codified standards for non-display panels: Based on (1) whether they are used in a walk-in cooler (*i.e.,* medium-temperature) or walk-in freezer (*i.e.,* low-temperature), and (2) whether they are structural (wall or ceiling) or floor panels. 10 CFR 431.306(a)(3)–(4). Table II.2 presents the equipment classes for walk-in panels.

DOE established equipment classes for walk-in refrigeration systems based on (1) whether they are dedicated condensing systems [8] or unit coolers,[9] and (2) whether they are used in a walk-in cooler (*i.e.,* medium-temperature) or walk-in freezer (*i.e.,* low-temperature). 10 CFR 431.306(e). DOE further divided dedicated condensing refrigeration systems into ''indoor'' and ''outdoor'' equipment classes.[10] *Id.* ''Indoor, low temperature'' dedicated condensing systems, ''outdoor, low temperature'' dedicated condensing systems,'' and ''low temperature'' unit coolers are further divided based on net capacity. See 10 CFR 431.306(e). Table II.3 lists the equipment classes for WICF refrigeration systems.

TABLE II.1—EQUIPMENT CLASSES FOR WALK-IN DOORS

Utility	Temperature	Class code
Display Door	Medium	DD.M.
	Low	DD.L.
Passage Door (Non-display).	Medium	PD.M.
	Low	PD.L.
Freight Door (Non-display).	Medium	FD.M.
	Low	FD.L.

[4] The thirteen other standards established in the June 2014 ECS final rule (*i.e.,* the four standards applicable to dedicated condensing refrigeration systems operating at medium-temperatures; the three standards applicable to panels; and the six standards applicable to doors) were not vacated.

[5] The docket can be accessed at *www.regulations.gov/docket/EERE-2015-BT-STD-0016.*

[6] A ''display door'' is a door that (1) is designed for product display, or (2) has 75 percent or more of its surface area composed of glass or another transparent material. 10 CFR 431.302.

[7] A ''freight door'' is a door that is not a display door and is equal to or larger than 4 feet wide and 8 feet tall. 10 CFR 431.302. A ''passage door'' is a door that is not a freight or display door. *Id.*

[8] A ''dedicated condensing system'' is one of the following: (1) A dedicated condensing unit; (2) A single-package dedicated system; or (3) A matched refrigeration system. 10 CFR 431.302.

[9] The term, ''unit cooler'' means ''an assembly, including means for forced air circulation and elements by which heat is transferred from air to refrigerant, thus cooling the air, without any element external to the cooler imposing air resistance.'' 10 CFR 431.302.

[10] An ''indoor dedicated condensing refrigeration system'' is a ''dedicated condensing refrigeration system designated by the manufacturer for indoor use or for which there is no designation regarding the use location.'' 10 CFR 431.302. An ''outdoor dedicated condensing refrigeration system'' is a ''dedicated condensing refrigeration system designated by the manufacturer for outdoor use.'' *Id.*

TABLE II.2—EQUIPMENT CLASSES FOR WALK-IN PANELS

Utility	Temperature	Class code
Floor Panel	Low	FP.L.
Structural (Wall or Ceiling) Panel	Medium	SP.M.
	Low	SP.L.

TABLE II.3—EQUIPMENT CLASSES FOR WALK-IN REFRIGERATION SYSTEMS

System type	Temperature	Condenser location	Refrigeration system net capacity (*Btu/h*)	Class code
Dedicated Condensing	Medium	Indoor	All Capacities	DC.M.I.
		Outdoor	All Capacities	DC.M.O.
	Low	Indoor	<6,500	DC.L.I, <6,500.
			≥6,500	DC.L.I, ≥6,500.
		Outdoor	<6,500	DC.L.O, <6,500.
			≥6,500	DC.L.O ≥6,500.
Unit Cooler	Medium		All Capacities	UC.M.
	Low		<15,500	UC.L, <15,500.
			≥15,500	UC.L, ≥15,000.

The applicability of these current equipment classes for certain walk-in products is discussed in more detail in sections II.A.1 through II.A.4 of this document.

1. Display Panels

A display panel is defined as a panel that is entirely or partially comprised of glass, a transparent material, or both, and is used for display purposes. 10 CFR 431.302. DOE has established a test procedure for calculating total daily energy consumption, based on measured thermal transmittance (also ''U-factor''), of display panels. 10 CFR 431.304(b)(1). DOE has not, however, adopted standards for display panels based on energy consumption as at the time of the June 2014 ECS final rule such panels made up a small fraction of the panel market and had a limited energy savings potential. 79 FR 32049, 32067. DOE has identified two manufacturers of display doors who also manufacture display panels.[11] Some models of these display panels contain anti-sweat heaters to prevent condensation similar to display doors.

Issue 1: DOE seeks information regarding the thermal transmission through display panels and design characteristics which would affect the thermal transmission, specifically, ''glass pack'' [12] design and frame design. DOE also seeks information regarding the amount of direct electrical energy consumption of electricity-consuming devices sited on or within display panels, including the amount of anti-sweat heat required, if any. DOE additionally requests information on any specific design or use characteristics differentiating display panels from display doors.

2. High-Temperature Freezers

DOE has established a test procedure for determining the net capacity and AWEF of walk-in refrigeration systems at appendix C to subpart R of 10 CFR part 431 (''Appendix C''), which incorporates by reference AHRI Standard 1250P (I–P), ''2009 Standard for Performance Rating of Walk-In Coolers and Freezers,'' (''AHRI 1250–2009''). 10 CFR 431.304(b)(4). As defined previously, the storage space (*i.e.,* box) of a walk-in cooler is refrigerated to temperatures above 32 °F, while walk-in freezers are refrigerated to temperatures at or below 32 °F. 42 U.S.C. 6311(20). See also 10 CFR 431.302. The current walk-in test procedure rates medium-temperature refrigeration systems (which are used in walk-in coolers) at 35 °F and low-temperature refrigeration systems (which are used in walk-in freezers) at –10 °F. (See section 5 of AHRI 1250–2009 (dry bulb temperature specifications) (incorporated by reference at 10 CFR 431.303(b))) Consequently, refrigeration system energy use for walk-in coolers is represented by performance at a 35 °F box temperature and refrigeration system energy use for walk-in freezers is represented by performance at a −10 °F box temperature.

As discussed in the July 2017 ECS final rule, stakeholders commented that so-called ''high-temperature'' freezer walk-ins are those with a box temperature range of 10 °F to 32 °F, and that medium-temperature refrigeration systems are generally used for this temperature range. 82 FR 31808, 31830. As discussed in a RFI published on June 17, 2021 (''June 2021 TP RFI''), high-temperature freezers would be considered walk-in freezers because their room temperature is less than or equal to 32 °F, and would therefore be rated at –10 °F. 86 FR 32332, 32349. To the extent a medium-temperature refrigeration system is used for high-temperature freezer applications, such a system may not be able to operate at the –10 °F room temperature prescribed by the test procedure for freezers. 81 FR 95758, 95790. Although the capacity of medium-temperature models measured at high-temperature freezer application temperatures is commonly reported in product literature, energy use levels are not.[13]

Issue 2: DOE requests comment on (1) whether there are medium-temperature refrigeration system models that are used exclusively in high temperature freezers, and (2) if a medium-temperature refrigeration system is efficient for cooler applications, will it also be efficient for use in high-temperature freezer applications. To the extent available, DOE requests data on dedicated condensing unit energy efficiency ratio (''EER'') at both high-

[11] Display panel product information from two manufacturers can be found at *www.regulations.gov* Docket No. EERE–2017–BT–STD–0009–0001 and Docket No. EERE–2017–BT–STD–0009–0002.

[12] The ''glass pack'' in a display door or window of a non-display door is an assembly of glass layers typically filled with low thermal-conductivity inert gas and held together at the edges of the glass by low-conductivity leak-tight spacers.

[13] Product literature showing capacity measurements of medium-temperature models used in high-temperature freezer applications from two manufacturers can be found at *www.regulations.gov* Docket No. EERE–2017–BT–STD–0009–0003 and Docket No. EERE–2017–BT–STD–0009–0004.

temperature freezer and medium-temperature refrigeration operation.

See section II.C.2.a for more discussion on high-temperature freezers.

3. Single-Package Refrigeration Systems

Single-package refrigeration systems are considered a type of dedicated condensing refrigeration system. 81 FR 95758, 95763. Many single-package systems are constructed in such a way that the entire refrigeration system is located outside of the refrigerated space; the package is typically mounted either on top of, or directly adjacent to the walk-in enclosure. Due to this construction, single-package systems may experience additional thermal losses not observed in split systems. Specifically, single-package systems circulate air through a ''cold section'' (evaporator, fan(s), and internal ducting) that may have exterior surfaces exposed to the warm air outside of the walk-in enclosure and/or the warm condensing unit side of the refrigeration system. This configuration can lead to conduction and/or infiltration thermal losses which represent a reduction in net capacity and efficiency.

As discussed in the June 2021 TP RFI, DOE is considering whether test procedure modifications are necessary to more appropriately address the conduction and/or infiltration thermal losses for single-package systems. 86 FR 32332, 32343–32344. To the extent that these losses are accounted for in the test procedure, technology options that mitigate such losses would reduce energy consumption and increase AWEF. Given the differences in construction between single-package and split systems and the potential for differentiated design options, DOE intends to separately evaluate single-package system representative units in its engineering and downstream analyses.

Issue 3: DOE requests data and information on the impact of single-package system design limitations on efficiency and how single-package systems differ from split systems. DOE additionally requests information showing the trend of efficiency as a function of capacity for single-package refrigeration systems.

See section II.C.2.a for more discussion on single-package refrigeration systems.

4. Wine Cellar Refrigeration Systems

As discussed in the June 2021 TP RFI, DOE has received requests for waiver and interim waiver from several manufacturers from the test procedure in Appendix C for walk-in wine cellar refrigeration systems. 86 FR 32332, 32344–32346. These systems are typically designed to provide a cold environment at a temperature range between 45–65 °F with 50–70 percent relative humidity (''RH''), and typically are kept at 55 °F and 55 percent RH.

The wine cellar refrigeration systems addressed in waiver petitions are sold as single-package systems, matched-pair systems, and unit cooler-only systems. The minimum capacity of available wine cellar refrigeration systems is lower than that of other walk-in cooler units (*e.g.,* capacity can be as low as 1,100 Btu/h [14] as compared with 4,200 Btu/h for the lowest-capacity medium-temperature dedicated condensing unit currently listed in the DOE Compliance Certification Management System (''CCMS'') database).[15] One manufacturer, Vinotheque, has noted that there are size constraints for wine cellar refrigeration systems. 86 FR 11961, 11972 (March 1, 2021). Additionally, certain wine cellar units can be ducted as an option—either on the condensing unit side, the evaporator side, or both—for greater installation flexibility. This factor increases fan energy use. Compressors that are typically available for use in lower-capacity wine cellar refrigeration systems are of a ''hermetic reciprocating'' design,[16] which generally has a lower efficiency than the larger-capacity compressors used for low- and medium-temperature walk-in refrigeration systems. Finally, as discussed previously, single-package wine cellar systems are also subject to additional thermal losses. DOE intends to conduct a separate analysis for wine cellar refrigeration systems in its engineering and downstream analyses.

Issue 4: DOE seeks information on how trends in wine cellar installations (*e.g.,* commercial vs. residential, square footage, etc.) are expected to impact the type of refrigeration system (*i.e.,* single-package, matched-pair, dedicated condensing unit, or unit cooler system) used in wine cellars over the next 5 to 10 years. Additionally, DOE requests information and data on the extent to which capacity may impact the efficiency of wine cellar refrigeration systems.

B. Significant Savings of Energy

As part of the rulemaking process, DOE conducts an energy use analysis to identify how a given equipment type is used, and thereby determine the energy savings potential of energy efficiency improvements.

The energy use analysis estimates the annual energy consumption of refrigeration systems (dedicated condensing systems and unit coolers) serving walk-ins, and the energy consumption, and losses, that can be directly ascribed to the selected components of the WICF envelopes (doors and panels). These estimates are used in the subsequent consumer, and National Impacts Analysis.

The estimates for the annual energy consumption of each analyzed representative refrigeration system were derived assuming that (1) the refrigeration system is sized such that it follows a specific daily duty cycle for a given number of hours per day at full-rated capacity, and (2) the refrigeration system produces no additional refrigeration effect for the remaining period of the 24-hour cycle. These assumptions are consistent with the present industry practice for sizing refrigeration systems. This methodology assumes that the refrigeration system is correctly paired with an envelope (*e.g.,* panels, door, etc.) that generates a load profile such that the rated hourly capacity of the paired refrigeration system, operated for the given number of run hours per day, produces sufficient refrigeration to meet the daily refrigeration load of the envelope with a safety margin to meet contingency situations. Thus, the annual energy consumption estimates for the refrigeration system depend on the methodology adopted for sizing, including implied assumptions and the extent of oversizing.

While DOE is particularly interested in comment, information, and data on the following issues, this request for information is not strictly limited to them.

1. Duty-Cycles and Typical Run Hours

For both the June 2014 ECS final rule and July 2017 ECS final rule analyses, DOE used nominal daily run-times of 16 hours for coolers, and 18 hours for freezers to estimate the in-field energy

[14] Product literature for a wine cellar refrigeration system with a capacity of 1,130 Btu/h from one manufacturer can be found at *www.regulations.gov* Docket No. EERE–2017–BT–STD–0009–0005.

[15] U.S. Department of Energy's Compliance Certification Database, *www.regulations.doe.gov/certification-data/CCMS-4-Walk-In_Coolers_and_Freezers_-_Refrigeration_Systems.html#q=Product_Group_s%3A%22Walk-In%20Coolers%20and%20Freezers%20-%20Refrigeration%20Systems%22,* Last Accessed: February 2, 2021.

[16] In a ''hermetic'' compressor, the compressor and motor are both contained in a single outer welded steel shell. Reciprocating compressors have a piston that slides back and forth in a cylinder. Refrigerant gas is drawn in through a suction valve as the piston moves away from the cylinder head, increasing the internal volume, and is compressed and discharged through a discharge valve as the piston returns. ''Hermetic reciprocating'' compressors are hermetically sealed with a reciprocating function.

use of walk-in refrigeration systems.[17] These run-times assume a capacity for a ''perfectly''-sized refrigeration system at specified reference ambient temperatures of 95 °F and 90 °F for refrigeration systems with outdoor and indoor dedicated condensing units, respectively. 79 FR 32050, 32083 and 82 FR 31808, 31842. Nominal run-time hours for coolers and freezers were adjusted to account for equipment oversizing safety margins and capacity mismatch factors (see section II.B.2. of this document). They were further adjusted to account for the change in net capacity from increased efficiency projected to occur in the standards case, and, in the case of outdoor equipment, variations in ambient temperature.[18] As discussed in the prior section, single-package refrigeration systems, high-temperature freezers, and wine cellars may have different run-times or be subject to different assumptions regarding sizing and ambient temperatures.

Issue 5: DOE seeks input and data as to the daily run-time hours, sizing practice, and ambient conditions for the following: Single-package refrigeration systems, high-temperature freezers, and wine cellars described in sections II.A.2 through II.A.4 of this document. DOE also requests information and data regarding any other aspects of the operation of such equipment that would influence run-time hours.

In its analysis supporting the June 2014 ECS final rule, DOE used the percent time off (''PTO'') value defined in the test procedure and engineering analysis to adjust the nominal direct electrical energy usage attributed to the anti-sweat heater (in kilowatt-hours per day (''kWh/day'')). The PTO values were applied as set forth in section 4.4.2(2) of appendix A to subpart R of 10 CFR part 431: 75 percent for anti-sweat heaters with timers, control systems, or other demand-based controls in cooler doors, and 50 percent for anti-sweat heaters with timers, control systems, or other demand-based controls in freezer doors. DOE is aware that some manufacturers design and market display doors for high-humidity cooler applications.[19]

Issue 6: DOE seeks input and data on the appropriate PTO values for display doors that would be exposed to higher levels of humidity. Specifically, DOE requests information on high-humidity walk-in cooler doors, including the range of typical installation conditions (*e.g.,* relative humidity throughout the year in store). DOE also requests data on the average amount of time per day or per year that anti-sweat heaters with timers, control systems, or demand-based controls [20] are operating at their full power and partial power (if applicable) for walk-in cooler display doors marketed for high-humidity applications.

2. Oversizing Factors

In both the June 2014 ECS final rule and July 2017 ECS final rule, DOE assumed that WICF refrigeration condensing systems and unit coolers in the field are sized to account for a ''worst case scenario'' need for refrigeration to prevent food spoilage, and as such are oversized by a safety margin. 79 FR 32050, 32083 and 82 FR 31808, 31842. DOE found that it is customary in the industry to add a 10 percent safety margin to the aggregate 24-hour load, resulting in 10 percent oversizing of the refrigeration system. *Id.* Additionally, DOE recognized that an exact match for the calculated refrigeration system capacity may not be available for the refrigeration systems available in the market because most refrigeration systems are produced in discrete capacities. To account for this situation, DOE applied a capacity mismatch factor of 10 percent to capture the inability to perfectly match the calculated WICF capacity with the capacity available in the market. 79 FR 32050, 32084 and 82 FR 31808, 31842. The combined safety margin factor and capacity mismatch factor result in a total oversizing factor of 1.2. With the oversize factor applied, the nominal run-time hours of the refrigeration system are reduced to 13.3 hours from 16 hours per day for coolers, and to 15 hours from 18 hours per day for freezers at their respective full design point capacity. 79 FR 32050, 32083 and 82 FR 31808, 31842.

Issue 7: DOE seeks input on whether the combined safety and capacity mismatch oversizing factors for adjusting daily nominal run-time hours relied on in the June 2014 ECS final rule and the July 2017 ECS final rule are appropriate for single-package refrigeration systems, high-temperature freezers, and wine cellars as described in sections II.A.2 through II.A.4 of this document. If different factors would be appropriate for such equipment, DOE requests data in support of alternate assumptions.

3. Base-Case Efficiency Distribution

DOE measures savings of potential standards relative to a ''no-new-standards'' case that reflects conditions without new and/or amended standards. The no-new-standards case reflects the distribution of equipment efficiency or energy use beginning at the baseline performance level. The baseline performance level in each equipment class represents the characteristics of common or typical equipment in that class. If there is an established DOE energy conservation standard for the class, the baseline performance level coincides with the current minimum energy conservation standard and provides basic end-user utility. However, not all models in an equipment class may be rated at the baseline performance level. DOE uses efficiency market shares to characterize the no-new-standards case equipment mix. By accounting for consumers who already purchase more-efficient equipment, DOE avoids overstating the potential benefits from potential standards.

In the July 2017 ECS final rule, DOE assumed that 100 percent of WICF refrigeration equipment is sold at the baseline efficiency level in the absence of new and/or amended standards. (Docket No. EERE–2015–BT–STD–0016, Public Meeting, No. 68 at pp. 53–54) These assumptions did not include medium-temperature condensing systems (which were not within the scope of that rulemaking). Medium-temperature condensing systems were included in the June 2014 ECS final rule where DOE assumed that 75 percent of shipments were baseline equipment, with the remaining 25 percent at the efficiency of the first design option above baseline. 79 FR 32050, 32087. DOE understands that these assumptions may not reflect the current

[17] This methodology differs from the run-times established in DOE's test procedure, which assumes a high-load period of 8 hours corresponding to frequent door openings, equipment loading events, and other design load factors, and a low-load period for the remaining 16 hours. In the June 2014 ECS final rule analyses, DOE concluded that these duty cycle assumptions should not be used for sizing purposes because they may not represent the average conditions for WICF refrigeration systems for all applications under all conditions. 79 FR 32050, 32083. These assumptions were maintained in the July 2017 ECS final rule. 82 FR 31808, 31842. DOE also notes that while 16 and 18 hours were assumed for coolers and freezers, respectively, these assumptions may not be appropriate for wine cellars, for which test procedure waiver alternate test procedures were established based on an expectation that typical operating time is 50 percent. (See: *www.energy.gov/eere/buildings/current-test-procedure-waivers#walk-ins* for the list of all waivers to test procedures that DOE has granted for walk-in coolers and freezers).

[18] See Chapter 6 of the Technical Support Document (''TSD'') for the July 2017 ECS final rule. Docket EERE–2015–BT–STD–0016–0099.

[19] Product data sheets from two manufacturers that produce walk-in cooler display doors marketed for high-humidity applications can be found at *www.regulations.gov,* Docket No. EERE–2017–BT–STD–0009–0006 and EERE–2017–BT–STD–0009–0007.

[20] For anti-sweat heaters, demand-based controls monitor humidity and temperature external to the walk-in and regulate anti-sweat heater wire use on demand.

state of the market due to adoption of more stringent efficiency standards.

Next, DOE examined the ratings for walk-in refrigeration systems reported in DOE's CCMS.[21] The number of models at or above the current standards are shown in Table II.4. These data show the count of models distributed in commerce with their respective efficiency ratings; however, these data do not indicate the volume of shipments of each model.

TABLE II.4—DISTRIBUTION OF EFFICIENCIES FOR REFRIGERATION SYSTEMS

Equipment class	Count of models	Count of models at baseline	Percent of models at baseline
UC.L	3,899	1,618	41
DC.L.O	1,780	1,438	81
DC.L.I	877	825	94
UC.M	5,228	3,222	62
DC.M.O	2,722	2,057	76
DC.M.I	1,145	956	83

In the June 2014 ECS final rule DOE assumed that: (1) All panels and non-display door shipments were at the baseline; (2) 25 percent of display low-temperature door shipments were at the baseline, with the remaining 75 percent at a higher efficiency (45 percent were assumed to have light emitting diode (''LED'') lighting, corresponding to the first design option above the baseline in the engineering analysis, and 30 percent were assumed to have LED lighting plus anti-sweat heater wire controls, corresponding to the second design option above the baseline); and (3) 80 percent of medium-temperature display doors shipments were at baseline and the remaining 20 percent would have LED lighting, corresponding to the first design option above the baseline for low-temperature display doors. 79 FR 32050, 32087. DOE understands that these assumptions may not reflect the current state of the market due to adoption of more stringent efficiency standards.

Next, DOE examined the ratings for walk-in doors and panels reported in the CCMS. The number of models at or above the current standards are shown in Table II.5.[22] Again, these data show the count of models distributed in commerce with their respective efficiency ratings; however, these data do not indicate the volume of shipments of each model.

TABLE II.5—DISTRIBUTION OF EFFICIENCIES FOR PANELS AND DOORS

Equipment class	Count of models	Count of models at baseline	Percent of models at baseline
DD.M	2,861	2,785	97
DD.L	1,213	1,108	91
PD.M	1,872	334	18
PD.F	1,124	604	54
FD.M	631	0	0
FD.L	274	95	35
SP.M	87	14	16
SP.L	98	50	51
FP.L	77	13	17

Issue 8: DOE seeks data and information regarding the current, and projected future market shares of WICF equipment by efficiency level (*e.g.,* expressed in terms of increments of 10 percent improvement in AWEF, R-values, and kWh/day for refrigeration systems, panels, and doors, respectively, above or below the existing standards in 10 CFR 431.306) to establish market trends in equipment efficiency over time. DOE also seeks information on how the current regulatory environment has affected the market share of WICF equipment by efficiency rating.

C. Technological Feasibility

During the June 2014 ECS final rule and July 2017 ECS final rule, DOE considered a number of technologies for reducing walk-in cooler and freezer energy consumption.[23] DOE is interested in understanding any technology improvements for walk-in doors, panels, and refrigeration systems since the previous energy standards rulemaking. Additionally, DOE is interested in any changes to the technologies it evaluated in the rulemakings for the June 2014 ECS final rule and July 2017 ECS final rule that may affect whether DOE could propose a ''no-new-standards'' determination, such as an insignificant increase in the range of efficiencies and performance characteristics of these technologies.

While DOE is particularly interested in comment, information, and data on the following issues, this request for information is not strictly limited to them.

1. Doors and Panels

a. Technology Options

A complete list of options evaluated in preparation for the June 2014 ECS

[21] Please see footnote 15.

[22] U.S. Department of Energy's Compliance Certification Database, *www.regulations.doe.gov/certification-data/CCMS-4-Walk-In_Coolers_and_Freezers_-_Doors.html#q=Product_Group_s%3A%22Walk-In%20Coolers%20and%20Freezers%20-%20Doors%22;* and *www.regulations.doe.gov/certification-data/CCMS-4-Walk-In_Coolers_and_Freezers_-_Panels.html#q=Product_Group_s%3A%22Walk-In%20Coolers%20and%20Freezers%20-%20Panels%22,* Last Accessed: March 17, 2021.

[23] For a complete list of technology options analyzed during the June 2014 and July 2017 ECS final rules, see chapter 3 of ''TSD'' for each rulemaking. Docket EERE–2008–BT–STD–0015–0131 (June 2014) and Docket EERE–2015–BT–STD–0016–0099 (July 2017).

final rule and explained in the TSD are listed in Table II.6 for doors and Table II.7 for panels.[24] Table II.8 lists additional technology options that DOE may consider in a future WICF energy conservation standard.

TABLE II.6—TECHNOLOGY OPTIONS CONSIDERED FOR WICF DOORS FROM THE JUNE 2014 ECS FINAL RULE

Component	Technology options
Display doors	Non-electric anti-sweat systems. Anti-sweat heater wire controls. Removal of heater wire. High-efficiency lighting. Lighting sensors. Occupancy sensors. Automatic insulation deployment systems. Enhanced glass systems.
Non-Display Doors	Increased insulation thickness. Improved insulation material. Improved framing materials. Heater wire controls. Enhanced glass systems.

TABLE II.7—TECHNOLOGY OPTIONS CONSIDERED FOR WICF PANELS FROM THE JUNE 2014 ECS FINAL RULE

Component	Technology options
Panels	Increased insulation thickness. Improved insulation material.

TABLE II.8—POTENTIAL NEW TECHNOLOGY OPTIONS FOR WICF DOORS

Component	Technology options
Display and Non-Display Doors.	Vacuum insulated glass.

Walk-in doors typically use anti-sweat heater wires to prevent (1) condensation from collecting on the glass, frame, or any other portion of the door, which can puddle and be hazardous to consumers, (2) fogging of the glass, and (3) the collecting of condensation that may lead to doors freezing shut. DOE has observed that anti-sweat heater wires for display doors may be placed within the door rail surrounding the glass pack and/or within the surrounding frame. For display doors, display panels, and non-display doors with viewing windows, as the thermal performance of the glass pack improves, the amount of anti-sweat heat required for the glass pack decreases. With a more insulative glass pack, there is a smaller temperature difference between the interior and exterior faces of the glass and the interior walk-in and exterior air temperatures, resulting in less condensation on the glass. As mentioned in the TSD for the June 2014 ECS final rule, DOE based the amount of anti-sweat heater wire energy consumption on the glass packs selected.[25] If a frame does not contain a thermal break or has poor insulative properties, despite having a glass pack with better insulative performance, the door assembly may still require more anti-sweat heat on the surrounding frame to prevent the condensation and fogging issues noted earlier.

Issue 9: DOE seeks information on how the physical construction of a display door, including the glass pack and the frame, impact the amount of anti-sweat heater wire power needed to prevent condensation accumulating on any part of the door. Specifically, DOE seeks quantitative data, if available, on the change in anti-sweat heater power (1) with a specific change in door frame design but no change in glass pack design, (2) with a specific change in glass pack design but no change in door frame design, and/or (3) with specific changes to the entire assembly. If there are specific design choices which are more costly but result in less or no anti-sweat heat, DOE requests cost data based on the capability of the door to prevent condensation from forming and the respective design options chosen. DOE also requests comment on any other considerations which may impact the use and power of anti-sweat heaters.

As stated previously, DOE is aware that some manufacturers design and market display doors for high-humidity applications. These doors generally have anti-sweat heaters with higher rated power than those of standard medium-temperature display doors but lower than the power required for low-temperature display doors. For example, data from the CCMS database show that doors marketed for high-humidity applications have a range of anti-sweat heater power per door opening area from 0.39 to 5.59 watt (''W'')/square foot (''ft^2''), with the average being 1.66 W/ft^2. By comparison, the range of anti-sweat heater power is between 0 to 3.74 W/ft^2 for cooler doors not marketed for high-humidity applications made by the manufacturers who also produce doors marketed for high-humidity applications, with the average being 1.01 W/ft^2.

Issue 10: DOE seeks specific data and information on the correlation between relative humidity conditions at installation and the anti-sweat heater power needed to prevent condensation from accumulating on a walk-in door.

DOE is also aware that walk-in display door manufacturers may produce glass doors for other kinds of refrigeration equipment. DOE has specifically observed that some glass doors for commercial refrigeration equipment, while appearing very similar in design to their walk-in door counterparts, do not include any anti-sweat heaters around the door or frame.

Issue 11: DOE requests comment on the differences in design, typical conditions, and usage of a walk-in display door as compared to a display door for commercial refrigeration equipment which result in commercial refrigeration equipment door designs with no anti-sweat heaters.

Non-display doors (passage and freight doors) typically have better insulative properties than display doors because they have little or no glass needed for viewing purposes. Door insulation is also subject to a minimum R-value. 10 CFR 431.306(a)(3). DOE expects that less anti-sweat heat may be needed to prevent condensation accumulation for non-display doors because of their improved overall resistance to heat flow as compared to display doors. Certified data from DOE's CCMS database,[26] presented in Table II.9, shows that passage and freight doors have lower average anti-sweat heater power per area of door opening than display doors and a higher percentage of passage and freight doors certify 0 W/ft^2 of anti-sweat heater power per area of door opening than display doors. However, the maximum anti-sweat heater power per area of door opening for low-temperature passage and freight doors is higher than the average for these equipment classes, and the maximum for these equipment classes is also higher than the maximum for low-temperature display doors.

[24] See sections 3.3.3 to 3.3.6 at pp. 3–26 to 3–30 of the TSD for the June 2014 ECS final rule. Docket EERE–2008–BT–STD–0015–0131.

[25] See section 5.5.2.3 at p. 5–19 of the TSD for the June 2014 ECS final rule. Docket EERE–2008–BT–STD–0015–0131.

[26] Please see footnote 22.

TABLE II.9—CERTIFIED RANGES OF ANTI-SWEAT HEATER POWER PER AREA OF DOOR OPENING FOR EACH WALK-IN DOOR EQUIPMENT CLASS

	Display door, medium temperature	Display door, low temperature	Passage door, medium temperature	Passage door, low temperature	Freight door, medium temperature	Freight door, low temperature
Minimum (W/ft^2)	0.00	0.00	0.00	0.00	0.00	0.00
Maximum (W/ft^2)	5.59	5.39	6.80	7.08	3.40	7.00
Average (W/ft^2)	1.37	2.99	0.42	1.15	0.11	0.16
Percent of Models without Anti-sweat Heat	5%	3%	60%	46%	63%	77%

Issue 12: DOE seeks specific data and information on how the physical construction of both passage and freight doors impact the amount of anti-sweat heater wire power needed to prevent condensation accumulation on any part of the door. DOE requests specific comment on any technologies that may reduce or eliminate the need for anti-sweat heat on passage or freight doors. DOE also requests door design information and data that explain why many passage and freight doors are able to perform without any anti-sweat heater power in the field but some doors, specifically low-temperature passage and freight doors, still require anti-sweat power that is greater than that required for display doors to prevent condensation accumulation.

As stated previously, DOE may consider technology options for walk-in doors that were not considered in the June 2014 ECS final rule, specifically vacuum-insulated glass packs for display doors and windows in non-display doors. DOE has identified two manufacturers that produce display doors with vacuum-insulated glass packs.[27]

Issue 13: DOE requests comment on the prevalence of vacuum-insulated glass for walk-in doors and whether other manufacturers are considering adopting this technology. DOE requests specific feedback on any obstacles or concerns (*e.g.,* patents, proprietary use, durability, practicability to manufacture, etc.) which would prevent manufacturers from using vacuum-insulated glass in walk-in doors. DOE also requests cost data for implementing vacuum-insulated glass in walk-in display doors.

b. Screening of Technology Options

Table II.10 lists the technology options that DOE screened out for walk-in doors and panels in the TSD for the June 2014 ECS final rule and the applicable screening criteria.[28]

TABLE II.10—DOORS AND PANELS TECHNOLOGY OPTIONS SCREENED FROM THE JUNE 2014 ECS FINAL RULE

Screened technology option	EPCA Criteria (X = Basis for Screening Out)				
	Technological feasibility	Practicability to manufacture, install, and service	Adverse impact on product utility	Adverse impacts on health and safety	Unique-pathway proprietary technologies
Non-electric anti-sweat systems	X				
Automatic insulation deployment systems	X				
Insulation thicker than 6 inches		X	X		

Issue 14: DOE requests feedback on what impact, if any, DOE's screening criteria (technological feasibility; practicability to manufacture, install, and service; adverse impacts on product utility or product availability; adverse impacts on health or safety; and unique-pathway proprietary technologies) would have on each of the technology options listed in Table II.6, Table II.7, and Table II.8 of this document. DOE also seeks information regarding how these same criteria would affect any other technology options not already identified in this document with respect to their potential use in walk-in doors and panels.

For the 2014 ECS final rule analyses, DOE screened out insulation thickness greater than six inches for panels and doors due to concerns about panels and doors becoming extremely heavy and unwieldy, long cure times for the insulation, and reduced space within the walk-in to store product.[29] DOE has identified one manufacturer that markets panels with a thickness range from 2-inches to 10-inches.[30]

Issue 15: DOE requests comment on whether 6 inches is an appropriate upper limit for screening out insulation thickness for panels and doors. For manufacturers that produce and certify panels with insulation thicknesses exceeding 6 inches, DOE requests feedback on what manufacturing investments have been made to do so. For manufacturers that do not produce panels with insulation thicknesses exceeding 6 inches, DOE requests feedback on the obstacles preventing them from increasing panel thickness.

c. Representative Units

In the June 2014 ECS final rule, DOE analyzed representative walk-in cooler and freezer doors and panels. 79 FR 32050, 32072–37073. The representative walk-in doors are presented in Table II.11.

[27] Product data sheets from two manufacturers that produce display doors with vacuum-insulated glass can be found at *www.regulations.gov,* Docket No. EERE–2017–BT–STD–0009–0008 and Docket No. EERE–2017–BT–STD–0009–0009.

[28] See section 4.3 at p. 4–5 of the TSD for the June 2014 ECS final rule. Docket EERE–2008–BT–STD–0015–0131.

[29] See section 4.3.5 at p. 4–5 of the TSD for the June 2014 ECS final rule. Docket EERE–2008–BT–STD–0015–0131.

[30] Technical data from one manufacturer that produces panels ranging from 2-inches to 10-inches thick can be found at *www.regulations.gov,* Docket No. EERE–2017–BT–STD–0009–0010.

TABLE II.11—REPRESENTATIVE WALK-IN DOORS EVALUATED IN JUNE 2014 ECS FINAL RULE *

Utility	Temperature	Representative unit size	Dimensions (height x length, ft)	Window area (ft^2) for non-display doors
Display Door	Cooler	Small	5.25 x 2.25	
		Medium	6.25 x 2.25	
		Large	7 x 3	
	Freezer	Small	5.25 x 2.25	
		Medium	6.25 x 2.25	
		Large	7 x 3	
Passage Door	Cooler	Small	6.5 x 2.5	2.25
		Medium	7 x 3	2.25
		Large	7.5 x 4	2.25
	Freezer	Small	6.5 x 2.5	2.25
		Medium	7 x 3	2.25
		Large	7.5 x 4	2.25
Freight Door	Cooler	Small	8 x 5	2.25
		Medium	9 x 7	4.00
		Large	12 x 7	4.00
	Freezer	Small	8 x 5	2.25
		Medium	9 x 7	4.00
		Large	12 x 7	4.00

* See section 5.3.1 at p. 5–3 of the TSD for the June 2014 ECS final rule, Docket EERE–2008–BT–STD–0015–0131.

For the 2014 ECS final rule, DOE only analyzed single-width display doors as representative units in the engineering analysis. However, many display doors are sold as multi-door configurations with 2-, 3-, 4-, or 5-door openings encapsulated within one outer frame. The relationship of energy use for a single-width display door may not linearly extrapolate for multi-door configurations. For example, a single-width door may include two light fixtures, one on each side of the door opening, whereas additional doors may add one light fixture per door opening. Thus, a single-width door of equal area to a double-width door would use less lighting power than the double-width door, despite being equal in area.

Issue 16: DOE requests feedback on the representative units for display doors used for the 2014 ECS final rule engineering analysis and whether multi-door configurations should be included as representative units. If so, DOE seeks comment on panel size and the number of panels that would be most representative for multi-door configurations. Additionally, DOE seeks specific data on the appropriate number of door openings and door sizes to consider and the additional electrical component power (*e.g.,* anti-sweat heater power, lighting, etc.) required for each additional door opening. DOE is also interested in any other differences between single-door and multi-door configurations that would impact energy use.

In the June 2021 TP RFI, DOE requested feedback on the current definitions of passage and freight doors and whether there were any attributes, including size, which distinguish them from each other. 86 FR 32332, 32335.

Issue 17: DOE seeks comment on the appropriateness of the representative units chosen for the previous analysis of passage and freight doors. DOE requests specific feedback on what the minimum and maximum sizes of both passage and freight doors are and if there are other attributes besides size which differentiate passage doors from freight doors and vice versa.

As discussed in the June 2021 TP RFI, DOE received multiple test procedure waivers requesting to increase the percent time off (''PTO'') for motorized walk-in door openers. 86 FR 32332, 32338. In the engineering analysis for the June 2014 ECS final rule, the representative units of walk-in doors analyzed did not include motorized door openers. DOE is considering whether motorized door openers should be considered in its representative models.

Issue 18: DOE seeks comment on the prevalence of motorized door openers for both display and non-display doors. DOE requests specific feedback on the prevalence of motorized door openers by equipment class, the minimum door size that might have a motorized door opener, the percentage of doors sold which typically include a motorized door opener, and any data relating power of a motorized door opener to door size.

2. Refrigeration Systems

a. Technology Options

A complete list of technology options evaluated for refrigeration systems in preparation for the June 2014 ECS final rule and July 2017 ECS final rule is presented in Table II.12.[31] Table II.13 lists additional technology options that DOE may consider in a future WICF energy conservation standard.

TABLE II.12—TECHNOLOGY OPTIONS CONSIDERED FOR WICF REFRIGERATION SYSTEMS IN THE JUNE 2014 ECS FINAL RULE AND JULY 2017 ECS FINAL RULE

Component	Technology options
Refrigeration Systems	Energy storage systems.
	Refrigeration system override.
	Automatic evaporator fan shut-off.
	Improved evaporator and condenser fan blades.
	Improved evaporator and condenser coils.
	Evaporator fan control.
	Ambient sub-cooling.
	Higher-efficiency fan motors.
	Higher-efficiency compressors.
	Variable-speed compressors.
	Liquid suction heat exchanger.
	Adaptive Defrost.
	Hot gas defrost.
	Floating head pressure.
	Condenser fan control.
	Economizer cooling.

[31] See sections 3.3.1 and 3.3.7–3.3.10 at pp. 3–24 through 3–25 and 3–30 through 3–33 of the TSD for the June 2014 ECS final rule. Docket EERE–2008–BT–STD–0015–0131. See section 3.3 at pp. 3–14 through 3–18 of the TSD for the July 2017 ECS final rule. Docket EERE–2015–BT–STD–0016–0099.

TABLE II.13—POTENTIAL NEW TECHNOLOGY OPTIONS FOR WICF REFRIGERATION SYSTEMS

Component	Technology options
Refrigeration Systems	Improved Thermal Insulation. Crankcase Heater Controls. Refrigerant.

As discussed in sections II.A.2, II.A.3, and II.A.4 of this document, DOE is interested specifically in high-temperature freezers, single-package refrigeration systems, and wine cellar refrigeration systems and how their particular applications may influence the use of the technology options listed in Table II.12 and Table II.13 of this document.

Issue 19: DOE requests comment on whether there are technology options or other design features that would be unique to high-temperature freezer refrigeration systems (*i.e.,* medium-temperature systems operating at a temperature between 10 °F to 32 °F) as compared to technology options or design features for medium-temperature refrigeration systems operating at above-freezing (cooler) temperatures. If high-temperature freezer refrigeration systems have certain unique features, DOE seeks information on those features and how they impact refrigeration system performance.

As discussed in section II.A.3 and II.A.4 of this document, single-package and wine cellar refrigeration systems have structural designs different from other walk-in split systems. Due to differences in design, DOE expects that the design options for these products may be different from dedicated condensing units and unit coolers sold separately.

Issue 20: DOE requests comment on which of the technology options listed in Table II.12 and Table II.13 of this document are available and used in single-package refrigeration systems. DOE also requests comment on whether there are other technologies that apply to single-package refrigeration systems not mentioned in Table II.12 or Table II.13 of this document. Additionally, DOE requests comment on which technology options are feasible for dedicated condensing systems and unit coolers but may not be feasible for single-packaged refrigeration systems due to structural design constraints.

Issue 21: DOE requests comment on which of the technology options listed in Table II.12 and Table II.13 of this document are available and used in wine cellar refrigeration systems. DOE also seeks information on whether there are additional technologies that apply to wine cellar refrigeration systems that are not mentioned in Table II.12 or Table II.13 of this document. Additionally, DOE requests comment on the specific design constraints for wine cellar refrigeration systems and how these constraints may impact the use of certain technology options.

In the July 2017 ECS final rule, DOE considered and ultimately screened out improved compressor technology options, such as multiple-capacity or variable-capacity compressors. 82 FR 31808, 31839. The current DOE test procedure does not allow testing of multiple-capacity or variable-capacity systems using the condenser-alone rating method. Although the test procedure does have provisions for testing multiple-capacity and variable-capacity matched-pair refrigeration systems, DOE did not analyze matched-pair systems in the engineering analysis and thus did not further consider this option. 82 FR 31808, 31839. DOE requested information and comment on testing multiple-capacity and variable-capacity compressors in the June 2021 TP RFI. 86 FR 32332, 32348–32349.

Issue 22: DOE seeks information on the availability of multiple-capacity or variable-capacity compressors in the current market. DOE is also interested in any end-user requirements that may restrict the use of, or reduce the potential benefits of, multi- or variable-capacity compressors in the field.

In the July 2017 ECS final rule, DOE evaluated scroll compressors for smaller capacity systems (capacities between 6,000 Btu/h and 25,000 Btu/h) and semi-hermetic compressors for larger capacity systems (capacities between 25,000 Btu/h and 72,000 Btu/h). 82 FR 31808, 31837–31838. For most evaluated representative capacities, DOE assigned the expected compressor type and did not evaluate compressor type as a design option. (At the 25,000 Btu/h overlap representative capacity, DOE applied a blended analysis, but also did not consider compressor type as a design option for efficiency improvement.) However, DOE is aware that some compressor types are more efficient than others. For example, a preliminary evaluation of DOE's CCMS database indicates that for those reported models with an AWEF value higher than the minimum standard, low-temperature dedicated condensing units (less than 25,000 Btu/h) with semi-hermetic compressors have reported AWEF values six percent, on average, higher than similar units that use a scroll compressor. DOE is interested in understanding how manufacturers select compressors when designing their equipment and the utility advantages and disadvantages of scroll versus semi-hermetic compressors over a range of capacities for which both compressors types could be considered.

Issue 23: DOE requests comment on the relative efficiency difference between scroll and semi-hermetic compressors in the range of capacities in which both are available. DOE also requests comment on other design parameters that would lead a manufacturer to select a certain compressor design over another and would represent potential utility differences of different compressor designs, specifically, (1) compressor weight relative to the final equipment weight and its impact on equipment shipping, installation, and end-use; (2) compressor durability, equipment warranty, and equipment lifetime; and (3) any other relevant differences.

DOE is also interested in understanding if other higher efficiency single-capacity compressors have become available for use in walk-in systems since the last rulemaking. For instance, DOE is interested in information on whether some compressors are more efficient than others at certain walk-in capacity ranges or operating conditions..

Issue 24: DOE seeks information on the availability and efficiencies of single-speed compressors (*e.g.,* scroll compressors, rotary compressors, semi-hermetic compressors) that were not available or were not considered in the analysis during the rulemaking finalized in 2017. Additionally, DOE is interested in understanding the availability of rotary compressors for use in single-package and wine cellar refrigeration systems.

As shown in Table II.13 of this document, DOE is investigating crankcase heater controls to understand how they are used in, and the field requirements for, outdoor walk-in refrigeration systems. There are several types of crankcase heater control systems that are available on the market for other types of equipment, specifically, central air conditioners and heat pumps (''CACs''). The technical support document from the direct final rule amending standards for CACs published on January 6, 2017 (''CAC 2017 direct final rule'') provides descriptions of different crankcase heater control systems.[32]

[32] See sections 3.4.1 at p. 3–34 of the TSD for the CAC 2014 direct final rule. Docket EERE–2014–BT–STD–0048–0098. The docket and supporting materials for the CAC 2017 direct final rule can be accessed at *www.regulations.gov/docket/EERE-2014-BT-STD-0048.*

Thermostatically-controlled crankcase heaters adjust whether the heater is on or off based on a temperature sensor that measures outdoor ambient air. When the outside ambient temperature is high enough the heater turns off, thus reducing energy use. (*Id.*). Self-regulating crankcase heaters have control systems that vary the resistivity as a function of temperature, thus providing ''internal'' thermostatic control to reduce energy use. (*Id.*) In its testing, DOE has observed that some walk-in refrigeration systems have the crankcase heater energized 100 percent of the time including when the compressor is operating, without demand-based controls. DOE is considering whether crankcase heater control technology might be applied to WICF refrigeration systems to improve efficiency.

Issue 25: DOE seeks comment on the prevalence of the use of crankcase heater controls for walk-in refrigeration systems. Additionally, DOE requests information on what type of crankcase heater controls are considered viable, and what application circumstances would make certain control approaches inappropriate *e.g.,* by unacceptably increasing the chance of compressor failure.

As discussed in section II.A.3 of this document, single-package refrigeration systems are susceptible to thermal losses associated with the structural design. Table II.13 lists thermal insulation as a potential technology option for these systems. Improved thermal insulation may reduce conduction losses, and better sealing of cabinet air leaks may reduce infiltration of warm outdoor air.

Issue 26: DOE seeks information on the potential for improved thermal insulation and sealing of air leaks to improve the efficiency of single-package refrigeration systems. Specifically, DOE is interested in data on the range of typical insulation thickness used in single-package systems to insulate the indoor portion, in addition to the insulation materials that are typically used. Additionally, DOE requests information on the processes and materials that manufacturers utilize to ensure airtight enclosures. DOE is also interested in understanding the quality control processes manufacturers have in place to ensure that airtight units are released to the market.

Evaluation of outdoor dedicated condensing units in DOE's CCMS database [33] indicate that 86 percent of medium-temperature and 91 percent of low-temperature models are offered with R–404A, R–407A, R–448A/R–449A, or R–507A. R–448A/R–449A has low Global Warming Potential (''GWP'') compared to R–407A, which in turn has lower GWP than R–404A and R–507A. The remaining medium- and low-temperature condensing unit models are offered with R–407C, R–407F, and R–52A. Additionally, DOE is aware that wine cellar walk-in refrigeration systems are currently offered with R–134A.

In past rulemakings, DOE has conducted its walk-in refrigeration system engineering analysis using a single refrigerant—using R–404A for the June 2014 ECS final rule and using R–407A for the July 2017 ECS final rule. 79 FR 32050, 32073–32074 and 82 FR 31808, 31835–31836. However, for basic models certified with an AWEF value higher than the minimum standard in DOE's CCMS database, DOE observes that some refrigerants provide efficiency advantages over others for products with similar rated capacities. For instance, between certified capacities of 13,500 Btu/h and 16,500 Btu/h, one low-temperature condensing unit basic model was certified with a reported AWEF range from 3.5 to 3.87 and from 3.49 to 4.43 with R–407A and R–448A/R–449A, respectively.

Issue 27: DOE requests comment and data to support whether it should include refrigerant as a design option in its engineering analysis for walk-in refrigeration systems. DOE also requests information on the availability and relative utility of R–452A, R–407C, and R–407F compared to R–407A and R–448A/R–449A for use in walk-in dedicated condensing units and single-package systems. Additionally, DOE is interested in understanding the availability and relative utility of R–450A, R–513A/R–513B, and R–515A compared to R–134A for wine cellar walk-in refrigeration systems. DOE is also interested in understanding what domestic and international activities may be driving trends in the market adoption of low GWP refrigerants.

In addition to evaluating low GWP refrigerants, DOE is investigating the potential use of non-traditional refrigerants, such as hydrocarbon refrigerants.

Issue 28: DOE requests information on the availability of specific non-traditional (*e.g.* hydrocarbon) refrigerants for use in dedicated condensing unit, unit cooler, single-package, and wine cellar walk-in refrigeration systems. DOE is interested in understanding what domestic and international activities may be driving trends in market adoption of non-traditional (*e.g.* hydrocarbon) refrigerants. DOE also seeks comment on whether and how the availability of higher-efficiency compressors might be impacted by the use of non-traditional (*e.g.* hydrocarbon) refrigerants. DOE requests information on whether charge limits or safety standards (*e.g.,* standards issued by Underwriter's Laboratory) would restrict the use of non-traditional (*e.g.* hydrocarbon) refrigerants in walk-in refrigeration systems. Finally, DOE requests comment on any additional design changes or safety measures that may be necessary for WICFs to incorporate non-traditional (*e.g.* hydrocarbon) refrigerants.

In its supporting analysis to the June 2014 ECS final rule, DOE evaluated evaporator coils with either 4 or 6 fins per inch for both low- and medium-temperature unit coolers.[34] For the July 2017 ECS final rule, DOE's engineering analysis included evaporator coils with 4 fins per inch for low-temperature and 6 fins per inch for medium-temperature unit coolers.[35] An evaluation of DOE's CCMS database [36] indicates a minimum of 4 fins per inch and a maximum of 8 fins per inch for both low-temperature and medium-temperature units, with higher certified AWEF values for models with a higher number of fins per inch. Roughly 65 percent of low-temperature models have more than 4 fins per inch, while about 10 percent of medium-temperature models have more than 6 fins per inch.

Issue 29: DOE seeks comment on if 4 fins per inch and 6 fins per inch for low- and medium-temperature unit coolers, respectively, are still appropriate to use in its engineering analysis given the number of certified models at each operating temperature that do not meet these specifications—and if not, which fin configuration(s) should DOE use for its analysis?

[33] Please see footnote 15.

[34] See Table 5.3.5 of the TSD for the June 2014 ECS final rule. Docket EERE–2008–BT–STD–0015–0131.

[35] See Table 5.3.2 of the TSD for the July 2017 ECS final rule. Docket EERE–2015–BT–STD–0016–0099.

[36] Please see footnote 15.

DOE also requests information and data on the potential impact on defrost frequency and/or daily energy use contributions for low-temperature unit coolers with more than 4 fins per inch and for medium-temperature unit coolers with more than 6 fins per inch used in high-temperature freezer applications (*i.e.* freezers with an interior temperature range from 10 °F to 32 °F). Finally, DOE requests comment on whether the number of fins per inch would be different for medium-temperature unit coolers used for medium-temperature versus high-temperature freezer applications. If the number of fins per inch would differ, DOE seeks data to support a representative number of fins per inch for medium-temperature unit coolers used in high-temperature freezer applications.

b. Screening of Technology Options

Table II.14 summarizes the refrigeration system technology options that DOE did not include in its analysis in the June 2014 ECS final rule and July 2017 ECS final rule, and the applicable screening criteria.

TABLE II.14—REFRIGERATION SYSTEMS TECHNOLOGY OPTIONS SCREENED FROM THE JUNE 2014 ECS FINAL RULE AND/OR JULY 2017 ECS FINAL RULE

	EPCA criteria				
Screened technology option	Technological feasibility	Practicability to manufacture, install, and service	Adverse impact on product utility	Adverse impacts on health and safety	Other reasons for not considering the technology
Liquid suction heat exchangers					X*
Refrigeration system override					X*
Economizer cooling					X*
Automatic evaporator fan shut-off					X*
Energy storage systems	X				
High efficiency evaporator fan motor	X				
3-Phase motors			X		
Improved evaporator coil			X		
Variable-capacity compressors					X†
Adaptive defrost					X*
On-cycle variable-speed evaporator fans					X*
Hot gas defrost					X*

* DOE screened out these technology options because they do not affect energy consumption as measured by the current DOE test procedure. (Docket EERE–2008–BT–STD–0015–0131, Section 4.2 at pp. 4–3 through 4–4; EERE–2015–BT–STD–0016–0099, Section 4.2 at pp. 4–2 through 4–4).

† DOE screened out variable-capacity compressors (a subset of higher-efficiency compressors) because the current DOE test procedure does not include a method for assessing variable-capacity dedicated condensing units tested without a matched unit cooler (see 10 CFR 431.304). 82 FR 31808, 31839.

Issue 30: DOE requests feedback on what impact, if any, DOE's screening criteria (technological feasibility; practicability to manufacture, install, and service; adverse impacts on product utility or product availability; adverse impacts on health or safety; and unique-pathway proprietary technologies) would have on each of the technology options listed in Table II.12 or Table II.13 of this document. Similarly, DOE seeks information regarding how these same criteria would affect any other technology options not already identified in this document with respect to their potential use in walk-in refrigeration systems.

The current test procedure includes a method to address systems with adaptive defrost. Section 3.3.5 of appendix C to subpart R of 10 CFR part 431. As provided in the DOE test procedure, adaptive defrost is not included in the determination of AWEF to demonstrate compliance but a manufacturer may voluntarily account for a unit's improved performance with adaptive defrost activated in its market representations. *Id.* As discussed in the June 2021 TP RFI, an adaptive system with a long period (*i.e.,* when too much frost builds up on the coils) between defrosts may significantly affect the on-cycle performance of the refrigeration system; however, a system that defrosts frequently could increase defrost energy use. 86 FR 32332, 32348. DOE recognizes the potential efficiency advantage offered by adaptive defrost and is considering how best to incorporate adaptive defrost into its analysis.

In a future rulemaking, DOE may consider allowing walk-in refrigeration systems with adaptive defrost to continue to qualitatively represent improved efficiency performance solely for marketing purposes and not for demonstrating compliance with the current standards. Adaptive defrost could also be used to demonstrate compliance with energy conservation standards. DOE could also include adaptive defrost in its analysis for setting new energy conservation standards; however, DOE would need to determine whether adaptive defrost would be included in the engineering analysis for dedicated condensing unit or for unit coolers (since DOE's analysis is based on a single component).

Issue 31: DOE requests stakeholder feedback on how to address adaptive defrost in a future rulemaking. Specifically, DOE is interested in data that support whether DOE should continue to screen adaptive defrost from its engineering analysis, and if not, DOE is interested in understanding whether adaptive defrost functionality and cost burden should be included in its analysis of dedicated condensing units or in its analysis of unit coolers. DOE additionally requests comment on how the screening results summarized in Table II.14 may have changed for adaptive defrost, such that the approaches used in the prior rulemaking analyses may no longer be appropriate.

DOE removed hot gas defrost as a design option in its analysis for the July 2017 ECS final rule. 82 FR 31808, 31834. Instead, DOE assigned to hot gas defrost unit coolers the same default values for electric defrost heat and energy use calculations that the test procedure assigns to dedicated condensing units that are not matched with a unit cooler for testing (*i.e.,* tested

alone). 81 FR 95758, 95774–95777, *see also* section 3.5 of appendix C to subpart R of 10 CFR part 431. In a test procedure final rule published on March 26, 2021 (''March 2021 TP final rule''), DOE updated the defrost energy use and thermal load equations for hot gas defrost unit coolers tested alone to provide a consistent performance evaluation between hot gas defrost and electric defrost unit coolers when tested alone. 86 FR 16027, 16030. However, this approach does not measure or account for actual hot gas defrost thermal load and energy use. 81 FR 95758, 95774–95777.

As discussed in the June 2021 TP RFI, defrost heat and energy values specific to hot gas defrost units are included in the most recent industry test method, ''2020 Standard for Performance Rating of Walk-In Coolers and Freezers,'' (''AHRI 1250–2020''). 86 FR 32332, 32347. Similar to the current approach for adaptive defrost, DOE could allow walk-in refrigeration systems with hot gas defrost to qualitatively represent improved efficiency performance solely for marketing purposes and not for demonstrating compliance with the current standards. Hot gas defrost could also be used to demonstrate compliance with energy conservation standards. DOE could also include hot gas defrost as a design option in its analysis for setting new energy conservation standards.

Issue 32: DOE requests stakeholder feedback on how to address hot gas defrost in a future rulemaking. Specifically, DOE is interested in data that support whether DOE should continue to screen hot gas defrost from its engineering analysis, and if not, DOE is interested in understanding whether hot gas defrost functionality and cost burden should be included in its analysis of dedicated condensing units or in its analysis of unit coolers. DOE additionally requests comment on how the screening results presented in Table II.14 of this document have changed for hot gas defrost, such that the approaches used in the prior rulemaking analyses may no longer be appropriate.

c. Representative Units

In the June 2014 ECS final rule and July 2017 ECS final rule, DOE analyzed the representative refrigeration system capacities presented in Table II.15. 79 FR 32050, 37073 and 82 FR 31808, 31835. However, data retrieved from DOE's CCMS database [15] indicates that:

- For outdoor medium-temperature dedicated condensing units, 39 percent of certified units have a nominal capacity greater than 96,000 Btu/h and 19 percent of certified units have a capacity greater than 200,000 Btu/h;
- For low-temperature unit coolers, 48 percent of certified units have a rated capacity of greater than 40,000 Btu/h and 19 percent are rated at greater than 100,000 Btu/h;
- For medium-temperature unit coolers, 55 percent of certified units have a nominal capacity greater than 24,000 Btu/h, with 16 percent rated at greater than 100,000 Btu/h.

These data are based on a count of basic models submitted to the CCMS database and do not indicate the volume of shipments of each model.

TABLE II.15—REPRESENTATIVE REFRIGERATION SYSTEM UNITS EVALUATED IN THE JUNE 2014 AND JULY 2017 ECS FINAL RULES

Equipment class	Representative unit capacity (Btu/h)	Representative unit compressor type	Associated rulemaking
Dedicated Condensing, Medium, Indoor	6,000	Hermetic	June 2014 ECS final rule.*
	6,000	Semi-hermetic.	
	18,000	Hermetic.	
	18,000	Scroll.	
	18,000	Semi-hermetic.	
	54,000	Scroll.	
	54,000	Semi-hermetic.	
	96,000	Scroll.	
	96,000	Semi-hermetic.	
Dedicated Condensing, Medium, Outdoor	6,000	Hermetic.	
	6,000	Semi-hermetic.	
	18,000	Hermetic.	
	18,000	Scroll.	
	18,000	Semi-hermetic.	
	54,000	Scroll.	
	54,000	Semi-hermetic.	
	96,000	Scroll.	
	96,000	Semi-hermetic.	
Dedicated Condensing, Low, Indoor, <6,500 Btu/h	6,000	Scroll	July 2017 ECS final rule.**
Dedicated Condensing, Low, Indoor, ≥6,500 Btu/h	9,000	Scroll.	
	25,000	Scroll.	
	25,000	Semi-hermetic.	
	54,000	Semi-hermetic.	
Dedicated Condensing, Low, Outdoor, <6,500 Btu/h	6,000	Scroll.	
Dedicated Condensing, Low, Outdoor, ≥6,500 Btu/h	9,000	Scroll.	
	25,000	Scroll.	
	25,000	Semi-hermetic.	
	54,000	Semi-hermetic.	
	72,000	Semi-hermetic.	
Unit Cooler, Medium	4,000	N/A.	
	9,000	N/A.	
	24,000	N/A.	
Unit Cooler, Low, <15,500 Btu/h	4,000	N/A.	
	9,000	N/A.	
Unit Cooler, Low, ≥15,500 Btu/h	18,000	N/A.	

TABLE II.15—REPRESENTATIVE REFRIGERATION SYSTEM UNITS EVALUATED IN THE JUNE 2014 AND JULY 2017 ECS FINAL RULES—Continued

Equipment class	Representative unit capacity (Btu/h)	Representative unit compressor type	Associated rulemaking
	40,000	N/A.	

* See section 5A.5 at pp. 5A–28 through 5A–45 of the TSD for the June 2014 ECS final rule, Docket EERE–2008–BT–STD–0015–0131.
** See section 5A.2 at pp. 5A–1 through 5A–18 of the TSD for the July 2017 ECS final rule, Docket EERE–2008–BT–STD–0015–0099.

Issue 33: DOE seeks comment on whether the representative minimum and maximum capacities listed in Table II.15 of this document are appropriate for walk-ins of 3,000 square feet or less. Specifically, DOE is interested in whether the highest capacities listed for each equipment class in Table II.15 of this document appropriately represent walk-ins within the scope of DOE's energy conservation standards (and/or sufficiently representative of models up to the largest capacities). If the highest capacities listed for each equipment class in Table II.15 of this document are not representative, DOE requests data and supporting information as to why they are not representative, and what appropriate maximum capacities for each equipment class would be.

Issue 34: DOE seeks comment on the appropriateness of the compressor types associated with each representative unit. Specifically, DOE seeks data on the respective ranges of refrigeration system capacities for which each compressor type (scroll, hermetic, and semi-hermetic) may realistically be used. Further, DOE seeks comment on if there are refrigeration system capacity ranges for which multiple types of compressors may be used.

DOE's initial research into single-package refrigeration systems indicates that capacities range between 1,900 Btu/h and 29,000 Btu/h, with most units less than 17,000 Btu/h. In order to conduct an engineering analysis for single-package refrigeration systems, DOE seeks information on the capacities of the most representative units on the market.

Issue 35: DOE requests comment on appropriate representative capacities for single-package refrigeration systems. Specifically, DOE requests data on the availability and prevalence of single-package units sized between 17,000 Btu/h and 29,000 Btu/h, and whether DOE should consider including a representative single-packaged refrigeration system with capacity in this range.

To conduct an engineering analysis for wine cellar refrigeration systems, DOE seeks information on the size and capacities of the most representative units on the market. DOE's initial research into wine cellar refrigeration systems indicates that the capacity for most single-package and matched-pair units ranges from 1,000 Btu/h to 18,000 Btu/h, with very few units between 13,000 Btu/h and 18,000 Btu/hr. Additionally, DOE received information from AHRI in 2019 listing capacity, AWEF, condenser fan power, and compressor type for wine cellar refrigeration systems.[37]

Issue 36: DOE requests comment on if the capacity, AWEF, condenser fan power, and compressor types provided by AHRI are representative of the market for single-package and matched-pair wine cellar refrigeration systems. DOE also seeks information on the availability and prevalence of wine cellar refrigeration systems between 13,000 and 18,000 Btu/h for walk-in wine cellars with a square footage of 3,000 square feet or less.

D. Significant Savings of Energy

In determining whether a proposed energy conservation standard is economically justified, DOE analyzes, among other things, the potential economic impact on consumers, manufacturers, and the Nation. DOE seeks comment on whether there are economic barriers to the adoption of more stringent energy conservation standards. DOE also seeks comment and data on any other aspects of its economic justification analysis from the June 2014 ECS final rule and July 2017 ECS final rule that may indicate whether a more stringent energy conservation standard would be economically justified or cost effective.

While DOE is particularly interested in comment, information, and data on the following issues, this request for information is not strictly limited to them.

1. Markups Analysis—Distribution Channels

DOE derives customer prices based on manufacturer markups, retailer markups, distributor markups, contractor markups (where appropriate), and sales taxes. In deriving these markups, DOE determines the major distribution channels for product sales, the markup associated with each party in each distribution channel, and the existence and magnitude of differences between markups for baseline products (''baseline markups'') and higher-efficiency products (''incremental markups''). The identified distribution channels (*i.e.,* how the products are distributed from the manufacturer to the consumer) and estimated relative sales volumes through each channel are used in generating end-user price inputs for the life-cycle cost (''LCC'') analysis and national impact analysis (''NIA'').

In the June 2014 ECS final rule and July 2017 ECS final rule, DOE defined the distribution channels for WICFs and estimated their respective shares of shipments as: (1) Direct to customer sales, through national accounts or contractors; (2) refrigeration wholesalers to consumers; (3) Original Equipment Manufacturers (''OEM'') to consumers—the OEM distribution channel primarily represents manufacturers of WICF refrigeration systems who may also install and sell entire WICF refrigeration units; (4) contractors who primarily install WICF envelope components (panels and doors); and (5) refrigeration equipment distributors of panels and non-display doors. WICF distribution channels evaluated in DOE's previous rulemakings are summarized in Table II.16.

[37] The AHRI Wine Cellar AWEF Technical Justification document containing the performance data of wine cellar refrigeration systems can be found at *www.regulations.gov* Docket No. EERE–2017–BT–STD–0009–0011.

TABLE II.16—DISTRIBUTION CHANNELS

	Distribution channel	Equipment type			
		Dedicated condensing equipment (%)	Unit coolers (%)	Panels and non-display doors (%)	Display doors (%)
1	Direct (National Accounts)	3	45	49	30
2	Refrigeration Wholesalers	42	45	.....	.....
3	OEM	55	10	.....	70
4	General Contractor	.....	.....	8	.....
5	Equipment Distributor	.....	.....	43	.....
	Total	100	100	100	100

Issue 37: DOE seeks comment on whether the distribution channels used in the June 2014 ECS final rule and July 2017 ECS final rule (as depicted in Table II.16) remain relevant today, and if not, DOE requests information on these channels as well as the existence of any additional channels that are used to distribute walk-in components into the market. Additionally, DOE requests comment on the appropriateness of these channels, and their respective fractions for the following equipment: display-panels, high-temperature freezers, single-package refrigeration systems, and wine cellars as described in sections II.A.1 through II.A.4 of this document.

2. Lifetime Analysis

The equipment lifetime is the age at which the equipment is retired from service. To reflect the uncertainty of equipment lifetimes the LCC analysis uses Weibull probability distributions for each equipment class. For the June 2014 ECS final rule and July 2017 ECS final rule DOE developed separate lifetime distributions for WICF envelope components and refrigeration system components. 79 FR 32050, 32086 and 82 FR 31808, 31846. The average values of these distributions are shown in Table II.17.

TABLE II.17—ESTIMATED AVERAGE WICF EQUIPMENT LIFETIMES

[Years]

Component	Average lifetime (years)
Refrigeration Systems (condensing systems and unit coolers)	10.5
Non-display Doors (freight and passage doors)	6
Display Doors	12
Panels	12

Issue 38: DOE seeks comment on its estimated equipment lifetime for WICF refrigeration system and envelope components. Specifically, DOE requests data on appropriate average lifetimes that DOE's analyses should use for: display-panels, high-temperature freezers, single-package refrigeration systems, and wine cellars as described in sections II.A.1 through II.A.4 of this document.

3. Shipments Analysis

DOE develops shipments forecasts of walk-ins to calculate the national impacts of potential amended energy conservation standards on energy consumption, net present value (''NPV''), and future manufacturer cash flows.[38] DOE's shipments projections are based on available data broken out by equipment class, capacity, and efficiency. Current sales estimates allow for a more accurate model that captures recent trends in the market.

The envelope component shipments model for panels and doors, and the refrigeration system shipments model for dedicated condensing systems and unit coolers, take an accounting approach, tracking market shares of each equipment class and the vintage of units in the existing stock over time. Stock accounting uses equipment shipments as inputs to estimate the age distribution of in-service equipment stocks for all the years covered under a potential revised standard. The age distribution of in-service equipment stocks is a key input to calculations of both the National Energy Savings (''NES'') and NPV of a potential new standard because operating costs for any year depend on the age distribution of the stock.

DOE's shipments model of walk-in refrigeration systems and envelope components are driven by new purchases and stock replacements due to failures. Equipment failure rates are related to equipment lifetimes (see section II.D.2 of this document). In the analyses done for the June 2014 ECS final rule and July 2017 ECS final rule, DOE modeled projections for new equipment using the commercial building floor space growth rates of buildings classified as ''*food sales,*'' ''*food service,*'' and ''*other*'' from the Energy Information Administration's Annual Energy Outlook.[39] In both the June 2014 ECS final rule and July 2017 ECS final rule DOE assumed that the share of shipments for each equipment class and capacity would remain constant over time. [40] 82 FR 31808, 31847.

Previously, complete historical shipments data for walk-ins could not be obtained from any single source. Therefore, in the June 2014 ECS final rule DOE used data from multiple sources to estimate historical shipments. 79 FR 32050, 32088. For the July 2017 ECS final rule, DOE continued with the same sources of shipments described in the NOPR published on September 13, 2016. 81 FR 62980, 63012.

Issue 39: DOE requests comment on its assumption that the market share of shipments for each equipment class would remain constant over time.

[38] DOE uses data on manufacturer shipments as a proxy for national sales, as aggregate data on sales are not readily available for DOE to examine. In general, one would expect a close correspondence between shipments and sales in light of their direct relationship with each other.

[39] See chapter 9, section 9.2 of the June 2014 ECS final rule TSD, available at: *www.regulations.gov/document/EERE-2008-BT-STD-0015-0131*. See chapter 9, section 9.3 of the July 2017 ECS final rule TSD, available at: *www.regulations.gov/document/EERE-2015-BT-STD-0016-0099*. For more information see: *www.eia.gov/outlooks/aeo/*.

[40] The assumption that shipments for each capacity of each equipment class would remain constant over time were not explicitly stated in either the Notice or the TSD of the June 2014 ECS final rule. However, the results for the shipments analysis, where this assumption is applied, can be reviewed in the final rule National Impacts Analyses (NIA) models for both refrigeration systems, panels, and doors. For refrigeration systems: *www.regulations.gov/document/EERE-2008-BT-STD-0015-0135*. For panels and doors: *www.regulations.gov/document/EERE-2008-BT-STD-0015-0134*.

a. Dedicated Condensing Systems and Unit Coolers

For the July 2017 ECS final rule, DOE initialized its stock and shipments model for low-temperature dedicated condensing equipment and unit coolers based on shipments data provided by stakeholders.[41] 82 FR 31808, 31847. These data did not explicitly state the share of medium-temperature dedicated condensing units and were inferred from both the fraction of low-temperature dedicated condensing equipment for various applications, and from medium-temperature unit cooler shipments. Walk-in shipments data used in the July 2017 ECS final rule analysis are summarized in Table II.18.

TABLE II.18—ESTIMATED CONDENSING SYSTEM AND UNIT COOLER SHIPMENTS, 2020

[Units]

	Equipment class					
	DC.L.I	DC.L.O	UC.L	DC.M.I	DC.M.O	UC.M
Dedicated Condensing Unit Only	3,202	4,075	.....	6,459	11,481	.....
Field Paired (Dedicated Condensing Systems and Unit Coolers)	14,943	19,019	.....	30,141	53,586	.....
Unit Coolers Only (connected to Dedicated Condensing Units)	.....	.....	7,277	.....	.....	17,941
Unit Coolers Only (connected to Multiplexing Condensing Units)	.....	.....	11,635	.....	.....	20,459

These data showed that:

- 4 percent of shipments were manufacturer-matched dedicated condensing units and unit coolers (manufacturer matched-paired), and the remaining 96 percent were sold as individual dedicated condensing units or unit coolers that installers matched in the field (stand-alone, and field-paired);
- 82 percent of low-temperature unit coolers were paired with dedicated condensing systems, and the remaining 18 percent were paired with multiplex systems. With respect to medium-temperature unit coolers, 85 percent of these were paired with dedicated condensing systems while the remaining 15 percent were paired with multiplex systems; and
- 46 percent of low-temperature dedicated condensing systems were installed indoors with the remaining 54 percent installed outdoors. Among medium-temperature dedicated condensing systems, 36 percent of these were installed indoors with the remaining 64 percent installed outdoors.[42]

These shipments estimates are exclusive of single-package refrigeration systems, high-temperature freezers, and wine cellar refrigeration systems described in sections II.A.2 through II.A.4 of this document.

Issue 40: DOE seeks input from stakeholders on whether the shipments shown for low-temperature dedicated condensing equipment and unit coolers are still relevant. Further, DOE seeks data on the annual shipments of low-temperature single-package refrigeration systems (see section II.A.3 of this document) and the distribution of rated capacities as shown in Table II.15 of this document.

Issue 41: DOE seeks input from stakeholders on whether the shipments shown for medium-temperature condensing equipment and unit coolers reflect the state of the current market.

Issue 42: DOE seeks data on the annual shipments of medium-temperature single-package refrigeration systems (see section II.A.3 of this document), high-temperature freezers (see section II.A.2 of this document) and wine cellar refrigeration systems (see section II.A.4 of this document) and the distribution of rated capacities of each (Btu/h). DOE also seeks data on the fraction of high-temperature freezers and wine cellar refrigeration systems that are sold as single-package, manufacturer matched-pair or split systems. Additionally, DOE requests data on the relative market size of refrigeration systems used in high temperature freezers compared to the refrigeration system market sizes for cooler applications (*i.e.,* temperature greater than 32 °F) and low-temperature (*e.g.,* less than or equal to −10 °F) freezer applications.

b. Doors and Panels

For the July 2014 ECS final rule, DOE initialized its stock and shipments model for panels and doors based on the number of complete WICF units per unit of floor space area, per building of a given type and size having any WICF unit. These data were derived from the Commercial Buildings Energy Consumption Survey (''CBECS'') 1999[43] and CBECS 2003.[44][45]

These data show that 70 percent of panel shipments are medium-temperature, 23 percent are low-temperature wall panels, and the remaining 7 percent are low-temperature floor panels (in terms of ft^2 shipped). DOE's forecasted shipments for WICF panels in 2020 are shown in Table II.19 of this document. For the June 2014 ECS final rule, DOE did not include panels and non-display doors that were installed outdoors its analysis.

TABLE II.19—ESTIMATED PANEL SHIPMENTS, 2020

[Million ft^2]

Utility	Temperature	Shipments (million ft^2)
Wall Panels	Medium	74

[41] *www.regulations.gov/document?D=EERE-2015-BT-STD-0016-0029,* WICF Refrigeration Equipment Shipment Data—10212015.

[42] See Chapter 9 of the TSD for the July 2017 ECS final rule. Docket EERE–2015–BT–STD–0016–0099.

[43] U.S. Department of Energy—Energy Information Administration. Commercial Buildings Energy Consumption Survey 1999. Washington, DC.

[44] U.S. Department of Energy—Energy Information Administration. Commercial Buildings Energy Consumption Survey 2003. Washington, DC.

[45] See Chapter 9 TSD for the June 2014 ECS final rule. Docket EERE–2008–BT–STD–0015–0131.

TABLE II.19—ESTIMATED PANEL SHIPMENTS, 2020—Continued

[Million ft^2]

Utility	Temperature	Shipments (million ft^2)
Wall Panels	Low	27
Floor Panels	Low	8

For display and non-display (freight and passage) doors, the CBECS data show that:

- 92 percent of display doors shipments were medium-temperature with low-temperature making up the remaining 8 percent;
- 67 percent of passage doors shipments were medium-temperature and 33 percent were low-temperature; and
- 65 percent of freight doors shipments were medium-temperature and 35 percent were low-temperature.

DOE's forecasted shipments for WICF doors in 2020 are shown in Table II.20. For the June 2014 ECS final rule DOE assumed that all doors were installed indoors.

TABLE II.20—ESTIMATED DOOR SHIPMENTS, 2020

[Units]

Utility	Temperature	Shipments (units)
Display Door	Medium	325,869
Display Door	Low	26,751
Passage Door	Medium	328,103
Passage Door	Low	161,848
Freight Door	Medium	19,477
Freight Door	Low	10,529

These shipments estimates are exclusive of display panels described in section II.A.1 of this document.

Issue 43: DOE requests data on the fraction of low-temperature and medium-temperature panels that are installed outdoors versus indoors. Additionally, DOE requests data on the fraction of low-temperature and medium-temperature freight and passage doors that are installed outdoors versus indoors.

Issue 44: DOE seeks input from stakeholders on whether the shipments shown for panels and doors reflect the state of the current market. Further, DOE seeks data on the annual shipments, in terms of units shipped, of low-temperature and medium-temperature display panels described in section II.A.1 of this document.

Issue 45: DOE also requests specific information on high-humidity medium-temperature display door shipments (see section II.C.1.a of this document) and their fraction of annual display door shipments.

III. Submission of Comments

DOE invites all interested parties to submit in writing by the date under the **DATES** heading, comments and information on matters addressed in this notification and on other matters relevant to DOE's early assessment of whether more-stringent energy conservation standards are warranted for walk-in coolers and freezers.

Submitting comments via www.regulations.gov. The *www.regulations.gov* web page requires 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. If this instruction is followed, 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 *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 *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 *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 *www.regulations.gov* provides after you have successfully uploaded your comment.

Submitting comments via email. Comments and documents submitted via email also will be posted to *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 in 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. Faxes will not 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. Pursuant 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 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. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

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 test procedures and energy conservation standards. 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.*

IV. 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:

Issue 1: DOE seeks information regarding the thermal transmission through display panels and design characteristics which would affect the thermal transmission, specifically, ''glass pack'' design and frame design. DOE also seeks information regarding the amount of direct electrical energy consumption of electricity-consuming devices sited on or within display panels, including the amount of anti-sweat heat required, if any. DOE additionally requests information on any specific design or use characteristics differentiating display panels from display doors.

Issue 2: DOE requests comment on (1) whether there are medium-temperature refrigeration system models that are used exclusively in high temperature freezers, and (2) if a medium-temperature refrigeration system is efficient for cooler applications, will it also be efficient for use in high-temperature freezer applications. To the extent available, DOE requests data on dedicated condensing unit energy efficiency ratio (''EER'') at both high-temperature freezer and medium-temperature refrigeration operation.

Issue 3: DOE requests data and information on the impact of single-package system design limitations on efficiency and how single-package systems differ from split systems. DOE additionally requests information showing the trend of efficiency as a function of capacity for single-package refrigeration systems.

Issue 4: DOE seeks information on how trends in wine cellar installations (*e.g.,* commercial vs. residential, square footage, etc.) are expected to impact the type of refrigeration system (*i.e.,* single-package, matched-pair, dedicated condensing unit, or unit cooler system) used in wine cellars over the next 5 to 10 years. Additionally, DOE requests information and data on the extent to which capacity may impact the efficiency of wine cellar refrigeration systems.

Issue 5: DOE seeks input and data as to the daily run-time hours, sizing practice, and ambient conditions for the following: single-package refrigeration systems, high-temperature freezers, and wine cellars described in sections II.A.2 through II.A.4 of this document. DOE also requests information and data regarding any other aspects of the operation of such equipment that would influence run-time hours.

Issue 6: DOE seeks input and data on the appropriate PTO values for display doors that would be exposed to higher levels of humidity. Specifically, DOE requests information on high-humidity walk-in cooler doors, including the range of typical installation conditions (*e.g.,* relative humidity throughout the year in store). DOE also requests data on the average amount of time per day or per year that anti-sweat heaters with timers, control systems, or demand-based controls are operating at their full power and partial power (if applicable) for walk-in cooler display doors marketed for high-humidity applications.

Issue 7: DOE seeks input on whether the combined safety and capacity mismatch oversizing factors for adjusting daily nominal run-time hours relied on in the June 2014 ECS final rule and the July 2017 ECS final rule are appropriate for single-package refrigeration systems, high-temperature freezers, and wine cellars as described in sections II.A.2 through II.A.4 of this document. If different factors would be appropriate for such equipment, DOE requests data in support of alternate assumptions.

Issue 8: DOE seeks data and information regarding the current, and projected future market shares of WICF equipment by efficiency level (*e.g.,* expressed in terms of increments of 10 percent improvement in AWEF, R-values, and kWh/day for refrigeration systems, panels, and doors, respectively, above or below the existing standards in 10 CFR 431.306) to establish market trends in equipment efficiency over time. DOE also seeks information on how the current regulatory environment has affected the market share of WICF equipment by efficiency rating.

Issue 9: DOE seeks information on how the physical construction of a display door, including the glass pack and the frame, impact the amount of anti-sweat heater wire power needed to prevent condensation accumulating on any part of the door. Specifically, DOE seeks quantitative data, if available, on the change in anti-sweat heater power (1) with a specific change in door frame design but no change in glass pack design, (2) with a specific change in glass pack design but no change in door frame design, and/or (3) with specific changes to the entire assembly. If there are specific design choices which are more costly but result in less or no anti-sweat heat, DOE requests cost data based on the capability of the door to prevent condensation from forming and the respective design options chosen.

DOE also requests comment on any other considerations which may impact the use and power of anti-sweat heaters.

Issue 10: DOE seeks specific data and information on the correlation between relative humidity conditions at installation and the anti-sweat heater power needed to prevent condensation from accumulating on a walk-in door.

Issue 11: DOE requests comment on the differences in design, typical conditions, and usage of a walk-in display door as compared to a display door for commercial refrigeration equipment which result in commercial refrigeration equipment door designs with no anti-sweat heaters.

Issue 12: DOE seeks specific data and information on how the physical construction of both passage and freight doors impact the amount of anti-sweat heater wire power needed to prevent condensation accumulation on any part of the door. DOE requests specific comment on any technologies that may reduce or eliminate the need for anti-sweat heat on passage or freight doors. DOE also requests door design information and data that explain why many passage and freight doors are able to perform without any anti-sweat heater power in the field but some doors, specifically low-temperature passage and freight doors, still require anti-sweat power that is greater than that required for display doors to prevent condensation accumulation.

Issue 13: DOE requests comment on the prevalence of vacuum-insulated glass for walk-in doors and whether other manufacturers are considering adopting this technology. DOE requests specific feedback on any obstacles or concerns (*e.g.,* patents, proprietary use, durability, practicability to manufacture, etc.) which would prevent manufacturers from using vacuum-insulated glass in walk-in doors. DOE also requests cost data for implementing vacuum-insulated glass in walk-in display doors.

Issue 14: DOE requests feedback on what impact, if any, DOE's screening criteria (technological feasibility; practicability to manufacture, install, and service; adverse impacts on product utility or product availability; adverse impacts on health or safety; and unique-pathway proprietary technologies) would have on each of the technology options listed in Table II.6, Table II.7, and Table II.8 of this document. DOE also seeks information regarding how these same criteria would affect any other technology options not already identified in this document with respect to their potential use in walk-in doors and panels.

Issue 15: DOE requests comment on whether 6 inches is an appropriate upper limit for screening out insulation thickness for panels and doors. For manufacturers that produce and certify panels with insulation thicknesses exceeding 6 inches, DOE requests feedback on what manufacturing investments have been made to do so. For manufacturers that do not produce panels with insulation thicknesses exceeding 6 inches, DOE requests feedback on the obstacles preventing them from increasing panel thickness.

Issue 16: DOE requests feedback on the representative units for display doors used for the 2014 ECS final rule engineering analysis and whether multi-door configurations should be included as representative units. If so, DOE seeks comment on panel size and the number of panels that would be most representative for multi-door configurations. Additionally, DOE seeks specific data on the appropriate number of door openings and door sizes to consider and the additional electrical component power (*e.g.,* anti-sweat heater power, lighting, etc.) required for each additional door opening. DOE is also interested in any other differences between single-door and multi-door configurations that would impact energy use.

Issue 17: DOE seeks comment on the appropriateness of the representative units chosen for the previous analysis of passage and freight doors. DOE requests specific feedback on what the minimum and maximum sizes of both passage and freight doors are and if there are other attributes besides size which differentiate passage doors from freight doors and vice versa.

Issue 18: DOE seeks comment on the prevalence of motorized door openers for both display and non-display doors. DOE requests specific feedback on the prevalence of motorized door openers by equipment class, the minimum door size that might have a motorized door opener, the percentage of doors sold which typically include a motorized door opener, and any data relating power of a motorized door opener to door size.

Issue 19: DOE requests comment on whether there are technology options or other design features that would be unique to high-temperature freezer refrigeration systems (*i.e.,* medium-temperature systems operating at a temperature between 10 °F to 32 °F) as compared to technology options or design features for medium-temperature refrigeration systems operating at above-freezing (cooler) temperatures. If high-temperature freezer refrigeration systems have certain unique features, DOE seeks information on those features and how they impact refrigeration system performance.

Issue 20: DOE requests comment on which of the technology options listed in Table II.12 and Table II.13 of this document are available and used in single-package refrigeration systems. DOE also requests comment on whether there are other technologies that apply to single-package refrigeration systems not mentioned in Table II.12 or Table II.13 of this document. Additionally, DOE requests comment on which technology options are feasible for dedicated condensing systems and unit coolers but may not be feasible for single-packaged refrigeration systems due to structural design constraints.

Issue 21: DOE requests comment on which of the technology options listed in Table II.12 and Table II.13 of this document are available and used in wine cellar refrigeration systems. DOE also seeks information on whether there are additional technologies that apply to wine cellar refrigeration systems that are not mentioned in Table II.12 or Table II.13 of this document. Additionally, DOE requests comment on the specific design constraints for wine cellar refrigeration systems and how these constraints may impact the use of certain technology options.

Issue 22: DOE seeks information on the availability of multiple-capacity or variable-capacity compressors in the current market. DOE is also interested in any end-user requirements that may restrict the use of, or reduce the potential benefits of, multi- or variable-capacity compressors in the field.

Issue 23: DOE requests comment on the relative efficiency difference between scroll and semi-hermetic compressors in the range of capacities in which both are available. DOE also requests comment on other design parameters that would lead a manufacturer to select a certain compressor design over another and would represent potential utility differences of different compressor designs, specifically, (1) compressor weight relative to the final equipment weight and its impact on equipment shipping, installation, and end-use; (2) compressor durability, equipment warranty, and equipment lifetime; and (3) any other relevant differences.

Issue 24: DOE seeks information on the availability and efficiencies of single-speed compressors (*e.g.,* scroll compressors, rotary compressors, semi-hermetic compressors) that were not available or were not considered in the analysis during the rulemaking finalized in 2017. Additionally, DOE is interested in understanding the availability of

rotary compressors for use in single-package and wine cellar refrigeration systems.

Issue 25: DOE seeks comment on the prevalence of the use of crankcase heater controls for walk-in refrigeration systems. Additionally, DOE requests information on what type of crankcase heater controls are considered viable, and what application circumstances would make certain control approaches inappropriate *e.g.,* by unacceptably increasing the chance of compressor failure.

Issue 26: DOE seeks information on the potential for improved thermal insulation and sealing of air leaks to improve the efficiency of single-package refrigeration systems. Specifically, DOE is interested in data on the range of typical insulation thickness used in single-package systems to insulate the indoor portion, in addition to the insulation materials that are typically used. Additionally, DOE requests information on the processes and materials that manufacturers utilize to ensure airtight enclosures. DOE is also interested in understanding the quality control processes manufacturers have in place to ensure that airtight units are released to the market.

Issue 27: DOE requests comment and data to support whether it should include refrigerant as a design option in its engineering analysis for walk-in refrigeration systems. DOE also requests information on the availability and relative utility of R–452A, R–407C, and R–407F compared to R–407A and R–448A/R–449A for use in walk-in dedicated condensing units and single-package systems. Additionally, DOE is interested in understanding the availability and relative utility of R–450A, R–513A/R–513B, and R–515A compared to R–134A for wine cellar walk-in refrigeration systems. DOE is also interested in understanding what domestic and international activities may be driving trends in the market adoption of low GWP refrigerants.

Issue 28: DOE requests information on the availability of specific non-traditional (*e.g.,* hydrocarbon) refrigerants for use in dedicated condensing unit, unit cooler, single-package, and wine cellar walk-in refrigeration systems. DOE is interested in understanding what domestic and international activities may be driving trends in market adoption of non-traditional (*e.g.,* hydrocarbon) refrigerants. DOE also seeks comment on whether and how the availability of higher-efficiency compressors might be impacted by the use of non-traditional (*e.g.,* hydrocarbon) refrigerants. DOE requests information on whether charge limits or safety standards (*e.g.,* standards issued by Underwriter's Laboratory) would restrict the use of non-traditional (*e.g.,* hydrocarbon) refrigerants in walk-in refrigeration systems. Finally, DOE requests comment on any additional design changes or safety measures that may be necessary for WICFs to incorporate non-traditional (*e.g.,* hydrocarbon) refrigerants.

Issue 29: DOE seeks comment on if 4 fins per inch and 6 fins per inch for low- and medium-temperature unit coolers, respectively, are still appropriate to use in its engineering analysis given the number of certified models at each operating temperature that do not meet these specifications—and if not, which fin configuration(s) should DOE use for its analysis? DOE also requests information and data on the potential impact on defrost frequency and/or daily energy use contributions for low-temperature unit coolers with more than 4 fins per inch and for medium-temperature unit coolers with more than 6 fins per inch used in high-temperature freezer applications (*i.e.,* freezers with an interior temperature range from 10 °F to 32 °F). Finally, DOE requests comment on whether the number of fins per inch would be different for medium-temperature unit coolers used for medium-temperature versus high-temperature freezer applications. If the number of fins per inch would differ, DOE seeks data to support a representative number of fins per inch for medium-temperature unit coolers used in high-temperature freezer applications.

Issue 30: DOE requests feedback on what impact, if any, DOE's screening criteria (technological feasibility; practicability to manufacture, install, and service; adverse impacts on product utility or product availability; adverse impacts on health or safety; and unique-pathway proprietary technologies) would have on each of the technology options listed in Table II.12 or Table II.13 of this document. Similarly, DOE seeks information regarding how these same criteria would affect any other technology options not already identified in this document with respect to their potential use in walk-in refrigeration systems.

Issue 31: DOE requests stakeholder feedback on how to address adaptive defrost in a future rulemaking. Specifically, DOE is interested in data that support whether DOE should continue to screen adaptive defrost from its engineering analysis, and if not, DOE is interested in understanding whether adaptive defrost functionality and cost burden should be included in its analysis of dedicated condensing units or in its analysis of unit coolers. DOE additionally requests comment on how the screening results summarized in Table II.14 may have changed for adaptive defrost, such that the approaches used in the prior rulemaking analyses may no longer be appropriate.

Issue 32: DOE requests stakeholder feedback on how to address hot gas defrost in a future rulemaking. Specifically, DOE is interested in data that support whether DOE should continue to screen hot gas defrost from its engineering analysis, and if not, DOE is interested in understanding whether hot gas defrost functionality and cost burden should be included in its analysis of dedicated condensing units or in its analysis of unit coolers. DOE additionally requests comment on how the screening results presented in Table II.14 of this document have changed for hot gas defrost, such that the approaches used in the prior rulemaking analyses may no longer be appropriate.

Issue 33: DOE seeks comment on whether the representative minimum and maximum capacities listed in Table II.15 of this document are appropriate for walk-ins of 3,000 square feet or less. Specifically, DOE is interested in whether the highest capacities listed for each equipment class in Table II.15 of this document appropriately represent walk-ins within the scope of DOE's energy conservation standards (and/or sufficiently representative of models up to the largest capacities). If the highest capacities listed for each equipment class in Table II.15 of this document are not representative, DOE requests data and supporting information as to why they are not representative, and what appropriate maximum capacities for each equipment class would be.

Issue 34: DOE seeks comment on the appropriateness of the compressor types associated with each representative unit. Specifically, DOE seeks data on the respective ranges of refrigeration system capacities for which each compressor type (scroll, hermetic, and semi-hermetic) may realistically be used. Further, DOE seeks comment on if there are refrigeration system capacity ranges for which multiple types of compressors may be used.

Issue 35: DOE requests comment on appropriate representative capacities for single-package refrigeration systems. Specifically, DOE requests data on the availability and prevalence of single-package units sized between 17,000 Btu/h and 29,000 Btu/h, and whether DOE should consider including a representative single-packaged refrigeration system with capacity in this range.

Issue 36: DOE requests comment on if the capacity, AWEF, condenser fan power, and compressor types provided by AHRI are representative of the market for single-package and matched-pair wine cellar refrigeration systems. DOE also seeks information on the availability and prevalence of wine cellar refrigeration systems between 13,000 and 18,000 Btu/h for walk-in wine cellars with a square footage of 3,000 square feet or less.

Issue 37: DOE seeks comment on whether the distribution channels used in the June 2014 ECS final rule and July 2017 ECS final rule (as depicted in Table II.16) remain relevant today, and if not, DOE requests information on these channels as well as the existence of any additional channels that are used to distribute walk-in components into the market. Additionally, DOE requests comment on the appropriateness of these channels, and their respective fractions for the following equipment: display-panels, high-temperature freezers, single-package refrigeration systems, and wine cellars as described in sections II.A.1 through II.A.4 of this document.

Issue 38: DOE seeks comment on its estimated equipment lifetime for WICF refrigeration system and envelope components. Specifically, DOE requests data on appropriate average lifetimes that DOE's analyses should use for: Display-panels, high-temperature freezers, single-package refrigeration systems, and wine cellars as described in sections II.A.1 through II.A.4 of this document.

Issue 39: DOE requests comment on its assumption that the market share of shipments for each equipment class would remain constant over time.

Issue 40: DOE seeks input from stakeholders on whether the shipments shown for low-temperature dedicated condensing equipment and unit coolers are still relevant. Further, DOE seeks data on the annual shipments of low-temperature single-package refrigeration systems (see section II.A.3 of this document) and the distribution of rated capacities as shown in Table II.15 of this document.

Issue 41: DOE seeks input from stakeholders on whether the shipments shown for medium-temperature condensing equipment and unit coolers reflect the state of the current market.

Issue 42: DOE seeks data on the annual shipments of medium-temperature single-package refrigeration systems (see section II.A.3 of this document), high-temperature freezers (see section II.A.2 of this document) and wine cellar refrigeration systems (see section II.A.4 of this document) and the distribution of rated capacities of each (Btu/h). DOE also seeks data on the fraction of high-temperature freezers and wine cellar refrigeration systems that are sold as single-package, manufacturer matched-pair or split systems. Additionally, DOE requests data on the relative market size of refrigeration systems used in high temperature freezers compared to the refrigeration system market sizes for cooler applications (*i.e.,* temperature greater than 32 °F) and low-temperature (*e.g.,* less than or equal to −10 °F) freezer applications.

Issue 43: DOE requests data on the fraction of low-temperature and medium-temperature panels that are installed outdoors versus indoors. Additionally, DOE requests data on the fraction of low-temperature and medium-temperature freight and passage doors that are installed outdoors versus indoors.

Issue 44: DOE seeks input from stakeholders on whether the shipments shown for panels and doors reflect the state of the current market. Further, DOE seeks data on the annual shipments, in terms of units shipped, of low-temperature and medium-temperature display panels described in section II.A.1 of this document.

Issue 45: DOE also requests specific information on high-humidity medium-temperature display door shipments (see section II.C.1.a of this document) and their fraction of annual display door shipments.

Signing Authority

This document of the Department of Energy was signed on July 7, 2021, by Kelly Speakes-Backman, Principal Deputy Assistant Secretary and Acting Assistant Secretary for Energy Efficiency and Renewable Energy, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on July 8, 2021.

Treena V. Garrett,

Federal Register Liaison Officer, U.S. Department of Energy.

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DEPARTMENT OF ENERGY

10 CFR Part 431

[EERE–2017–BT–STD–0007]

RIN 1904–AD82

Energy Conservation Program: Energy Conservation Standards for Certain Commercial and Industrial Equipment; Early Assessment Review; Commercial Refrigerators, Freezers, and Refrigerator-Freezers

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

ACTION: Request for information.

SUMMARY: The U.S. Department of Energy (''DOE'' or ''the Department'') is undertaking an early assessment review for amended energy conservation standards for commercial refrigerators, freezers, and refrigerator-freezers (''CRE'') to determine whether to amend applicable energy conservation standards for this equipment. Specifically, through this request for information (''RFI''), DOE seeks data and information to evaluate whether amended energy conservation standards would result in significant savings of energy; be technologically feasible; and be economically justified. DOE welcomes written comments from the public on any subject within the scope of this document (including those topics not specifically raised in this RFI), as well as the submission of data and other relevant information concerning this early assessment review.

DATES: Written comments and information are requested and will be accepted on or before August 30, 2021.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at *https://www.regulations.gov.* Follow the instructions for submitting comments. Alternatively, interested persons may submit comments, identified by docket number [EERE–2017–BT–STD–0007], by any of the following methods:

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

2. *Email:* to *CRE2017STD0007@ee.doe.gov.* Include docket number [EERE–2017–BT–STD–0007] in the subject line of the message.

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

Although DOE has routinely accepted public comment submissions through a variety of mechanisms, including postal

mail and hand delivery/courier, the Department has found it necessary to make temporary modifications to the comment submission process in light of the ongoing Covid–19 pandemic. DOE is currently suspending receipt of public comments via postal mail and hand delivery/courier. If a commenter finds that this change poses an undue hardship, please contact Appliance Standards Program staff at (202) 586–1445 to discuss the need for alternative arrangements. Once the Covid–19 pandemic health emergency is resolved, DOE anticipates resuming all of its regular options for public comment submission, including postal mail and hand delivery/courier.

Docket: The docket for this activity, which includes **Federal Register** notices, comments, and other supporting documents/materials, is available for review at *https://www.regulations.gov.* All documents in the docket are listed in the *https://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://www.regulations.gov/#!docketDetail;D=EERE-2017-BT-STD-0007.* The docket web page contains instructions on how to access all documents, including public comments, in the docket. See section III for information on how to submit comments through *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Dr. Stephanie Johnson, 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) 287–1943. Email: *ApplianceStandardsQuestions@ee.doe.gov.*

Peter Cochran, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–9496. Email: *Peter.Cochran@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. Introduction

DOE has established an early assessment review process to conduct a more focused analysis to evaluate, based on statutory criteria, whether a new or amended energy conservation standard is warranted. Based on the information received in response to the RFI and DOE's own analysis, DOE will determine whether to proceed with a rulemaking for a new or amended energy conservation standard. If DOE makes an initial determination that a new or amended energy conservation standard would satisfy the applicable statutory criteria or DOE's analysis is inconclusive, DOE would undertake the preliminary stages of a rulemaking to issue a new or amended energy conservation standard. If DOE makes an initial determination based upon available evidence that a new or amended energy conservation standard would not meet the applicable statutory criteria, DOE would engage in notice and comment rulemaking before issuing a final determination that new or amended energy conservation standards are not warranted.

A. Authority

The Energy Policy and Conservation Act, as amended (''EPCA''),[1] among other things, authorizes DOE to regulate the energy efficiency of a number of consumer products and certain industrial equipment. (42 U.S.C. 6291–6317) Title III, Part C[2] of EPCA, added by Public Law 95–619, Title IV, section 441(a) (42 U.S.C. 6311–6317, as codified), established the Energy Conservation Program for Certain Industrial Equipment, which sets forth a variety of provisions designed to improve energy efficiency. This equipment includes CRE, the subject of this document. (42 U.S.C. 6311(1)(E))

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 EPCA include definitions (42 U.S.C. 6311), test procedures (42 U.S.C. 6314), labeling provisions (42 U.S.C. 6315), energy conservation standards (42 U.S.C. 6313), and the authority to require information and reports from manufacturers (42 U.S.C. 6316).

Federal energy efficiency requirements for covered equipment established under EPCA generally supersede State laws and regulations concerning energy conservation testing, labeling, and standards. (42 U.S.C. 6316(a) and (b); 42 U.S.C. 6297) DOE may, however, grant waivers of Federal preemption in limited instances for particular State laws or regulations, in accordance with the procedures and other provisions set forth under 42 U.S.C. 6316(a) and (e) (applying the preemption waiver provisions of 42 U.S.C. 6297)).

EPCA prescribes energy conservation standards for CRE and directs DOE to conduct rulemakings to establish new and amended standards. (42 U.S.C. 6313(c)(2)–(6)) DOE must follow specific statutory criteria for prescribing new or amended standards for covered equipment. EPCA requires that any new or amended energy conservation standard prescribed by the Secretary of Energy (''Secretary'') be designed to achieve the maximum improvement in energy or water efficiency that is technologically feasible and economically justified. (42 U.S.C. 6316(e)(1); 42 U.S.C. 6295(o)(2)(A)) The Secretary may not prescribe an amended or new standard that will not result in significant conservation of energy, or is not technologically feasible or economically justified. (42 U.S.C. 6316(a); 42 U.S.C. 6295(o)(3))

EPCA also requires that, not later than 6 years after the issuance of any final rule establishing or amending a standard, DOE evaluate the energy conservation standards for each type of covered equipment, including those at issue here, and publish either a notification of determination that the standards do not need to be amended, or a NOPR that includes new proposed energy conservation standards (proceeding to a final rule, as

[1] All references to EPCA in this document refer to the statute as amended through the Energy Act of 2020, Public Law 116–260 (Dec. 27, 2020).

[2] For editorial reasons, upon codification in the U.S. Code, Part C was redesignated Part A–1.

appropriate). (42 U.S.C. 6316(e)(1); 42 U.S.C. 6295(m)(1))

DOE is issuing this RFI to collect data and information to inform its decision of whether to propose amended energy conservation standards consistent with its obligations under EPCA. (42 U.S.C. 6313(c)(6)(B); 42 U.S.C. 6316(e)(1); 42 U.S.C. 6295(m))

B. Rulemaking History

Pursuant to EPCA, DOE published a final rule establishing amended standards for CRE on March 28, 2014 (the ''March 2014 Final Rule''), for which compliance was required as of March 27, 2017. 79 FR 17725. The current energy conservation standards consist of maximum daily energy consumption (''MDEC'') values as a function of either refrigerated volume or total display area (''TDA'') and are located in title 10 of the Code of Federal Regulations (''CFR'') part 431, subpart C.[3]

II. Request for Information

DOE is publishing this RFI to collect data and information during the early assessment review to inform its decision, consistent with its obligations under EPCA, as to whether the Department should proceed with an energy conservation standards rulemaking. DOE has identified certain topics for which information and data are requested to assist in the evaluation of the potential for amended energy conservation standards. DOE also welcomes comments on other issues relevant to its early assessment that may not specifically be identified in this document. Specifically, for any future rulemaking to consider amended energy conservation standards, DOE would likely follow an analysis approach consistent with that used in the March 2014 Final Rule.[4] DOE welcomes comment on the applicability of that analysis approach in addition to the specific issues discussed in the following sections.

A. Scope of Coverage and Equipment Classes

1. Equipment Classes

When evaluating and establishing energy conservation standards, DOE may divide equipment into equipment classes by the type of energy used, or by capacity or other performance-related features that justify a different standard. (42 U.S.C. 6316(e)(1); 42 U.S.C. 6295(q)) In making a determination whether capacity or another performance-related feature justifies a different standard, DOE must consider such factors as the utility to the consumer of such a feature and other factors DOE deems appropriate. *Id.*

For CRE, the current energy conservation standards in 10 CFR 431.66 are based on 49 equipment classes, which are determined according to the following performance-related features that provide utility to the consumer: Operating temperature (refrigerator, freezer, or ice cream freezer), presence of doors (open or closed), door type (solid or transparent), condensing unit type (remote or self-contained), configuration (horizontal, vertical, semi-vertical, or service over counter), and temperature pull-down capability.

Issue 1: DOE requests feedback on the current CRE equipment classes and whether changes to these individual equipment classes and their descriptions should be made or whether certain classes should be merged or separated. DOE also requests comment on whether any other new equipment classes are appropriate.

DOE has also identified certain specific topics regarding equipment classes and definitions on which it requests comment, as discussed in the following sections.

a. Door Angle

DOE differentiates equipment classes, in part, based on whether the door angle is horizontal or vertical. 10 CFR 431.66(e)(1). Door angle refers to: (1) For equipment with flat doors, the angle between a vertical line and the line formed by the plane of the door, when the equipment is viewed in cross-section; and (2) for equipment with curved doors, the angle formed between a vertical line and the straight line drawn by connecting the top and bottom points where the display area glass joins the cabinet, when the equipment is viewed in cross-section. 10 CFR 431.62. DOE defines ''horizontal closed'' as equipment with hinged or sliding doors and a door angle greater than or equal to 45 degrees. *Id.* ''Vertical closed'' refers to equipment with hinged or sliding doors and a door angle less than 45 degrees. *Id.*

DOE has identified CRE models with solid doors that do not create a flat plane. For example, a refrigerated case may have one door on the front vertical surface and another on the top horizontal surface, with the doors connecting at the top front corner of the case (*i.e.,* when both doors are open, the front and top of the case have a continuous opening similar to semi-vertical open equipment). In this example, the doors do not create a flat plane, as referenced in part 1 of the door angle definition, and the doors are not curved and do not include display glass as referenced in part 2 of the door angle definition.

Issue 2: DOE requests comment on whether it should amend the door angle definition to address CRE models with doors on multiple faces of the equipment or CRE with curved solid doors. DOE also requests comment on the appropriate equipment class for such equipment, including how manufacturers are currently treating such equipment.

b. Open Equipment With Doors

Equipment classes are also differentiated based on whether the equipment is ''open'' (*i.e.,* does not have doors) and the orientation of the air curtain (horizontal open, semi-vertical open, and vertical open). 10 CFR 431.66(e)(1). DOE has identified CRE models that meet the open equipment class definitions, except that they also have doors that provide an alternate method of access to the refrigerated space. Based on a review of this equipment, the open portion of the equipment is intended for customer access to the refrigerated space. The doors are typically located at the back of the equipment and provide an alternate or secondary method of access for loading product into the case. The doors are not accessible to customers during normal operation and may have a means for locking.

Issue 3: DOE requests comment on whether the open equipment definitions in 10 CFR 431.62 should be revised to clarify treatment of open equipment with doors providing an alternate or secondary method of access to the refrigerated space. DOE also seeks information on how manufacturers are currently treating such equipment.

c. Equipment With Pass-Through Doors

CRE with pass-through doors are typically closed cases with doors on both the front and rear sides of the refrigerated case. The current DOE CRE test procedure incorporates by reference the American Society of Heating, Refrigerating, and Air-Conditioning Engineers (''ASHRAE'') Standard 72–2005 (''ASHRAE 72–2005''), ''Method of Testing Commercial Refrigerators and Freezers''. Section 7.2 of ASHRAE 72–2005 specifies that for ''units with pass-through doors, only the doors on one side of the unit shall be opened during

[3] The currently applicable DOE test procedures for CRE appear at 10 CFR part 431, subpart C, Appendix B.

[4] The analysis conducted in support of developing the March 2014 Final Rule is available in the Technical Support Document (''TSD'') available at: *https://www.regulations.gov/document?D=EERE-2010-BT-STD-0003-0102.*

the test''. Although equipment with pass-through doors are subject to the door opening requirements of ASHRAE 72–2005 and would therefore have the same door opening sequences as non-pass-through CRE (*i.e.,* only the door(s) on one side of the equipment would be opened), CRE with pass-through doors may have a different tested energy performance than comparable CRE without pass-through doors. The presence of multiple doors introduces additional potential heat leak pathways to the refrigerated cabinet, which could increase energy use. For example, pass-through doors require additional door gaskets, glass panels (for transparent equipment classes), and, in some cases, anti-sweat heaters.

Issue 4: DOE requests comment and supporting data on whether pass-through doors are a performance-related feature that justifies a different energy conservation standard than other similar CRE without pass-through doors. DOE seeks data and performance information regarding the performance impacts of pass-through door models compared to similar non-pass-through CRE.

2. Potential New Equipment Categories

DOE is aware of certain equipment that meets the CRE definition at 10 CFR 431.62, but for which there are no current DOE test procedures or energy conservation standards (in the case of refrigerated salad bars, buffet tables, and preparation tables; additional pull-down temperature applications; and chef bases or griddle stands) or for which new test procedures and equipment classes may be appropriate (in the case of high-temperature CRE and models with dedicated remote condensing units). In a separate RFI to consider amended test procedures for CRE, DOE requested feedback on appropriate definitions and test procedures for these potential new equipment categories. 86 FR 31182 (''June 2021 Test Procedure RFI''). If DOE were to establish test procedures for these equipment categories, DOE requests information to determine how to organize this equipment into additional equipment classes, if necessary, when considering potential energy conservation standards.

Issue 5: DOE requests comment on whether equipment capacity or any other performance-related features for these potential new equipment categories would justify a different energy conservation standard compared to other CRE currently subject to energy conservation standards or to other equipment within that same category. For example, refrigerated salad bars, buffet tables, and preparation tables may require separate equipment classes for equipment with and without refrigerated storage compartments. DOE also requests comment on whether the equipment characteristics delineating the existing CRE equipment classes would similarly apply to these potential new equipment categories.

B. Significant Savings of Energy

On March 28, 2014, DOE established an energy conservation standard for CRE that is expected to result in 2.89 quadrillion British thermal units (''quads'') of site energy savings over a 30-year period. Additionally, in the March 2014 Final Rule, DOE estimated that an energy conservation standard established at an energy use level equivalent to that achieved using the maximum available technology (''max-tech'') would have resulted in 4.21 additional quads of savings. 79 FR 17726, 17806.

While DOE's request for information is not limited to the following issues, DOE is particularly interested in comment, information, and data on the following topics to inform whether potential amended energy conservation standards would result in a significant savings of energy.

1. Shipments

For the March 2014 Final Rule, DOE did not obtain shipments data from a single source, but used data from multiple sources to estimate shipments and cross-verify the data from one source to another. Those sources were 2005 shipments data provided by the Air-Conditioning, Heating, and Refrigeration Institute (''AHRI'') as part of its comments on the 2006 rulemaking Framework document; [5] a CRE market report by Freedonia Group, Inc.; [6] a 2008 and a 2012 market report by the North American Association of Food Equipment Manufacturers; [7] [8] a 2009 DOE report prepared by Navigant Consulting on CRE; [9] CRE shipments from ENERGY STAR; [10] and CRE saturation estimates calculated from the Energy Information Administration (''EIA'') Commercial Buildings Energy Consumption Survey (''CBECS'') for 1999 [11] and 2003.[12] Based on these data sources, DOE developed an allocation of shipments for the 25 equipment classes (''primary equipment classes'') that were analyzed from a total of 49 overall in the March 2014 Final Rule. In addition, considering commercial floorspace projections and CRE market saturations, DOE developed an estimate of CRE shipments projections. Table II.1 shows the allocation of CRE for the 25 primary equipment classes, expressed in linear feet of shipped units [13] and Table II.2 shows total CRE shipments between 2014 and 2020, as projected in the March 2014 Final Rule. See chapter 9 of the March 2014 Final Rule TSD for details on the development of shipments estimates.

TABLE II.1—PERCENT OF SHIPPED LINEAR FEET FOR CRE BY EQUIPMENT CLASS

Equipment class	Percent	Equipment class	Percent
VOP.RC.M	10.3	SVO.SC.M	1.1
VOP.RC.L	0.5	SOC.RC.M	2.1
VOP.SC.M	1.3	SOC.SC.M	0.2
VCT.RC.M	0.8	HZO.RC.M	1.3
VCT.RC.L	10.7	HZO.RC.L	4.0
VCT.SC.M	4.8	HZO.SC.M	0.1
VCT.SC.L	0.2	HZO.SC.L	0.2

[5] Docket No. EERE–2006–STD–0126, ARI, No. 7, Exhibit B at p. 1.

[6] Freedonia Group, Inc. *Commercial Refrigeration Equipment to 2014.* 2010. Cleveland, OH. Study 2261. *https://www.freedoniagroup.com/Commercial-Refrigeration-Equipment.html.*

[7] North American Association of Food Equipment Manufacturers. *2008 Size and Shape of Industry.* 2008. Chicago, IL.

[8] North American Association of Food Equipment Manufacturers. *2012 Size and Shape of Industry.* 2012. Chicago, IL.

[9] Navigant Consulting, Inc. *Energy Savings Potential and R&D Opportunities for Commercial Refrigeration.* 2009. Prepared by Navigant Consulting, Inc. for the U.S. Department of Energy, Washington, DC.

[10] Energy Star. Unit Shipment and Sales Data Archives. Available at: *https://www.energystar.gov/index.cfm?c=partners.unit_shipment_data_archives.*

[11] Available at *https://www.eia.gov/consumption/commercial/data/1999/.*

[12] Available at *https://www.eia.gov/consumption/commercial/data/2003/.*

[13] Historical linear feet of shipped units is the figure used by industry to depict the annual amount of CRE capacity shipped, and is an alternative way to express shipments data.

TABLE II.1—PERCENT OF SHIPPED LINEAR FEET FOR CRE BY EQUIPMENT CLASS—Continued

Equipment class	Percent	Equipment class	Percent
VCT.SC.I	0.3	HCT.SC.M	0.1
VCS.SC.M	25.4	HCT.SC.L	0.4
VCS.SC.L	15.0	HCT.SC.I	0.4
VCS.SC.I	0.1	HCS.SC.M	4.4
SVO.RC.M	8.2	HCS.SC.L	0.6
PD.SC.M	7.6		

VOP = Vertical Open
SVO = Semi-Vertical Open
HZO = Horizontal Open
VCT = Vertical Closed Transparent
HCT = Horizontal Closed Transparent
SOC = Service Over Counter
PD = Pull-Down
HCS = Horizontal Closed Solid
VCS = Vertical Closed Solid
RC = Remote Condensing
SC = Self Contained
M = Medium Temperature
L = Low Temperature
I = Ice Cream Temperature

TABLE II.2—TOTAL ESTIMATED CRE SHIPMENTS FROM 2014 TO 2020

Year	2014	2015	2016	2017	2018	2019	2020
Estimated Shipments (million units)	1.01	1.03	1.06	1.11	1.16	1.21	1.26
Estimated Shipments (million linear ft.)	6.14	6.24	6.45	6.72	7.00	7.30	7.60

Issue 6: DOE requests annual sales data (in units shipped or linear feet of shipped units) of CRE from 2014 to 2020, disaggregated by equipment class. DOE also seeks feedback on how the breakdowns by equipment class presented in Table II.1 of this document and the annual shipments estimates shown in Table II.2 of this document compare to the actual shipments in those years. If disaggregated shipments data are not available at the equipment class level, DOE requests shipments data at any broader available category.

Issue 7: DOE also seeks historical and current shipments data on any additional CRE categories under consideration for potential standards (*i.e.,* refrigerated salad bars, buffet tables, and preparation tables; solid-door equipment for pull-down temperature applications; chef bases or griddle stands; high-temperature CRE; and CRE with dedicated remote condensing units).

2. National Energy Savings

The purpose of the national impact analysis (''NIA'') is to estimate aggregate impacts of potential new and/or amended efficiency standards at the national level in terms of national energy savings (''NES'') and net present value (''NPV'', discussed in section II.D.4 of this document) of the total consumer benefits. The NIA considers lifetime impacts of potential standards on equipment shipped in a 30-year period that begins with the expected compliance date for new and/or amended standards.

DOE measures savings of potential standards relative to a ''no-new-standards'' case that reflects conditions without new and/or amended standards, and uses current efficiency market shares to characterize the no-new-standards case equipment efficiency distribution. By accounting for consumers who already purchase more efficient CRE, DOE avoids overstating the potential benefits from potential standards. In the March 2014 Final Rule, DOE developed efficiency trends for CRE in the no-new-standards case and the standards cases assuming that the market would move over time to adopt ENERGY STAR rated equipment. To estimate the impact that energy efficiency standards would have in the year compliance becomes required, DOE used a ''roll-up'' scenario. A roll-up scenario assumes that equipment efficiencies in the no-new-standards case, which do not meet the standard level under consideration, would ''roll up'' to meet the new efficiency standard level. Equipment shipments at efficiencies above the efficiency standard level under consideration are not affected. See chapter 10 of the March 2014 Final Rule TSD for details on this approach.

Issue 8: DOE seeks input on whether any market or technology changes would warrant a different approach to develop CRE efficiency trends than the one followed in the March 2014 Final Rule. DOE requests any relevant data that could be used to project efficiency trends for CRE.

C. Technological Feasibility

1. Technology Options

During the March 2014 Final Rule, DOE considered a number of technology options that manufacturers could use to reduce energy consumption in CRE. Table II.3 includes a complete list of those technology options considered in developing the March 2014 Final Rule.

TABLE II.3—TECHNOLOGY OPTIONS FOR CRE CONSIDERED IN THE DEVELOPMENT OF THE MARCH 2014 FINAL RULE

Technology option category	Technology option
Lighting	Higher efficiency lighting (*e.g.,* Light Emitting Diodes [LEDs]). Higher efficiency lighting ballasts. Remote lighting ballast location.

TABLE II.3—TECHNOLOGY OPTIONS FOR CRE CONSIDERED IN THE DEVELOPMENT OF THE MARCH 2014 FINAL RULE—Continued

Technology option category	Technology option
	Lighting occupancy sensors.
Heat Exchangers	Improved evaporator coil design.
	Improved condenser coil design (self-contained equipment only).
	Low-pressure differential evaporators.
	Liquid suction heat exchangers.
Fans	Higher efficiency fan motors (*e.g.,* Electronically Commutated Motors (''ECM'')).
	Variable-speed fan motors with controls.
	Higher efficiency fan blades.
Defrost	Hot-gas defrost.
	Defrost cycle controls.
Insulation	Increased insulation thickness.
	Vacuum insulated panels.
Expansion Valves	Higher efficiency expansion valves.
Doors	Improved gaskets.
	Inert gas fill.
	Low-emissivity coating.
	Additional glass panes.
	Anti-fog films.
	Anti-sweat heater controls.
Other Technologies	Night Curtains.
Compressors	Higher efficiency compressors (for self-contained equipment only).

Issue 9: DOE seeks information on the technologies listed in Table II.3 of this document, including their applicability to the current market and how these technologies may impact the energy use of CRE as measured according to the DOE test procedure. DOE also seeks information on how these technologies may have changed since they were considered in the March 2014 Final Rule analysis. Specifically, DOE seeks information on the range of efficiencies or performance characteristics that are currently available for each technology option.

Issue 10: DOE seeks information on the technologies listed in Table II.3 of this document regarding their market adoption, costs, and any concerns with incorporating them into products (*e.g.,* impacts on consumer utility, potential safety concerns, manufacturing/production/implementation issues, *etc.*), particularly as to changes that may have occurred since the March 2014 Final Rule.

Issue 11: DOE seeks comment on any other technology options that it should consider for inclusion in its analysis and if these technologies may impact equipment features or user utility.

In a final rule published on December 20, 2011, EPA listed propane (R–290) as acceptable for use in self-contained CRE, subject to a charge limit of 150 grams and other appropriate safety measures to address the flammability risk. 76 FR 78832. In an April 10, 2015 final rule, EPA additionally listed isobutane (R–600a) and the hydrocarbon blend R–441A as acceptable for use in self-contained CRE, also subject to a 150-gram charge limit and other safety measures to address flammability. 80 FR 19454.

A review of the market indicates that manufacturers of self-contained CRE have begun transitioning to hydrocarbon refrigerants, which have different thermo-physical properties than traditionally-used refrigerants. In considering how manufacturers would improve efficiencies for CRE, DOE is interested in how equipment energy consumption is affected by the ongoing transition to alternative refrigerants.

Issue 12: DOE requests comment on which refrigerant(s) DOE should consider as potential technology options for improving CRE efficiencies. DOE additionally requests comment and supporting data on the energy consumption impact of this transition to alternative refrigerants. DOE also seeks information on the availability of such alternative refrigerants and their applicability and/or penetration in the current market. Specifically, DOE requests information on whether charge limits or safety standards (*e.g.,* standards issued by Underwriter's Laboratory) would restrict their use. DOE also requests comment on any additional design changes or safety measures that may be required for CRE to incorporate alternative refrigerants.

Issue 13: DOE similarly requests comment on the likely alternative refrigerant(s) for use with remote condensing CRE. DOE specifically requests supporting data on how such a transition would impact the energy consumption of remote condensing CRE as measured under the DOE test procedure and on any additional design changes or safety measures that may be required for some alternative refrigerants.

CRE manufacturers may similarly be transitioning from traditional foam blowing agents to alternatives, which may affect the physical properties of the foam itself, namely its ability to resist heat transfer (*i.e.,* the R-value). These differences in the R-value of insulation foam in turn affect the energy performance of CRE by influencing case heat load.

Issue 14: DOE requests comment and supporting data on the market penetration, costs, and thermal resistivities of insulation foams using traditional and alternative blowing agents. DOE additionally requests comment on any potential safety concerns, such as flammability, arising from alternative foam blowing agents. Finally, DOE requests comment and supporting data on any additional design changes or safety measures that may be required to incorporate alternative foam blowing agents in CRE.

As discussed previously in this RFI, DOE may consider energy conservation standards for refrigerated salad bars, buffet tables, and preparation tables; additional pull-down temperature applications; chef bases or griddle stands; high-temperature CRE; and CRE with dedicated remote condensing units. The features and operation of these types of equipment may introduce additional technology options not previously considered.

Issue 15: DOE requests comment on any technology options not previously

considered for CRE, including technology options that could be used to improve the energy efficiency of refrigerated salad bars, buffet tables, and preparation tables; additional pull-down temperature applications; chef bases or griddle stands; high-temperature CRE; and CRE with dedicated remote condensing units. DOE also seeks information on how technology options may have unique efficiency impacts on these equipment categories. For example, there may be greater energy savings potential associated with variable-speed compressors and fan motors in pull-down temperature applications and chef bases or griddle stands compared to the other existing CRE equipment classes.

2. Screening Analysis

The purpose of the screening analysis is to evaluate the technologies that improve equipment efficiency to determine which technologies will be eliminated from further consideration and which will be passed to the engineering analysis for further consideration. DOE determines whether to eliminate certain technology options from further consideration based on the following criteria: Technological feasibility; practicability to manufacture, install, and service; adverse impacts on product utility or product availability; adverse impacts on health or safety; and unique-pathway proprietary technologies. 10 CFR part 430, subpart C, appendix A, 6(c)(3).

Table II.4 summarizes the technology options that DOE screened out in the March 2014 Final Rule, and the applicable screening criteria.

TABLE II.4—PREVIOUSLY SCREENED OUT TECHNOLOGY OPTIONS FROM THE MARCH 2014 FINAL RULE

Screened technology option	EPCA criteria (X = basis for screening out)				
	Technological feasibility	Practicability to manufacture, install, and service	Adverse impact on product utility	Adverse impacts on health and safety	Does not reduce energy consumption measured by the DOE test procedure
Higher Efficiency Expansion Valves					X
Variable Speed Condenser Fans and Condenser Fan Motor Controllers.					X
Anti-Sweat Heater Controllers					X
Liquid Suction Heat Exchangers		X			X
Air Curtain Design		X			

Issue 16: DOE requests feedback on what impact, if any, the screening criteria described in this section would have on each of the technology options listed in Table II.3 of this document with respect to CRE. Similarly, DOE seeks information regarding how these same criteria would affect any other technology options not already identified in this document with respect to their potential use in CRE.

Issue 17: With respect to the screened out technology options listed in Table II.4 of this document, DOE seeks information on whether these options would, based on current and projected assessments regarding each of them, remain screened out under the screening criteria described in this section. With respect to each of these technology options, what steps, if any, could be (or have already been) taken to facilitate the introduction of each option as a means to improve the energy performance of CRE and the potential to impact consumer utility of the CRE.

3. Engineering Efficiency Analysis

The engineering analysis estimates the cost-efficiency relationship of equipment at different levels of increased energy efficiency (''efficiency levels''). This relationship serves as the basis for the cost-benefit calculations for commercial consumers, manufacturers, and the Nation, as described further in section II.D of this document.

As discussed, the current energy conservation standard for each CRE equipment class is based on MDEC in kWh/day determined according to an equation using the equipment's chilled volume (''V'') in cubic feet (''ft^3''), or its TDA in square feet (''ft^2''). The current standards for CRE are found at 10 CFR 431.62.

Issue 18: DOE requests feedback on whether the current established energy conservation standards for CRE are appropriate baseline efficiency levels for the existing equipment classes. DOE further requests comment on whether the existing energy conservation standards are based on the appropriate normalization metric (*i.e.,* TDA or volume) for the existing equipment classes.

As mentioned in section II.A.2 of this RFI, DOE is evaluating whether to develop test procedures for refrigerated salad bars, buffet tables, and preparation buffet tables; solid-doored equipment for pull-down applications; chef bases or griddle stands; high-temperature CRE; and CRE with dedicated remote condensing units. As no energy conservation standards currently exist for refrigerated salad bars, buffet tables, and preparation buffet tables, solid-doored equipment for pull-down applications, chef bases or griddle stands, and current energy conservation standards are not specific to high-temperature CRE and CRE with dedicated remote condensing units, DOE is interested in data that would allow the development of a baseline efficiency levels for these equipment categories (and any applicable equipment classes).

Although existing CRE energy conservation standards are based on either the chilled volume or TDA for a CRE model, for these newly considered equipment categories, other parameters may be more appropriate as the basis for an equation representing how the maximum allowable daily energy consumption varies with equipment size and application. For example, for refrigerated salad bars, buffet tables, and preparation tables, pan volume or surface area (possibly in addition to the chilled volume of any refrigerated compartments that are not thermally separate from the pans) may be the appropriate capacity metric. Similarly, for solid-doored equipment for pull-down applications, product capacity may be the relevant metric.

Issue 19: DOE requests comment on appropriate parameters to use as the basis for efficiency levels to represent potential energy conservation standards for refrigerated salad bars, buffet tables,

and preparation tables. DOE similarly seeks information on appropriate parameters to use in developing efficiency levels for solid-door equipment for pull-down applications, chef bases or griddle stands, high-temperature CRE, and CRE with dedicated remote condensing units.

Issue 20: DOE requests data describing the energy consumption, and storage and/or display capacity of refrigerated salad bars, buffet tables, and preparation tables; solid-door equipment for pull-down applications; chef bases or griddle stands; high-temperature CRE; and CRE with dedicated remote condensing units that could be used in assessing appropriate baseline efficiency levels based on the current market for this equipment. DOE requests information on the typical design options that would be expected to be incorporated into a baseline model for each equipment category.

As part of DOE's analysis, DOE develops efficiency levels above the baseline as potential energy conservation standards to evaluate in the rulemaking analyses. Among these, DOE typically establishes efficiency levels at the maximum available and max-tech efficiencies. The maximum available efficiency level represents the highest efficiency units currently available on the market.

DOE has performed a preliminary analysis of CRE models, found in the DOE's Compliance Certification (''CCMS'') Database,[14] to assess the potential to improve efficiency relative to current (*i.e.,* baseline) standard levels. DOE observed that models are currently available with daily energy consumptions significantly lower than the baseline at the currently allowable energy conservation standard.

Issue 21: DOE seeks input on whether the maximum available efficiency levels (*i.e.,* the lowest available energy use levels) are appropriate and technologically feasible for consideration as possible energy conservation standards for CRE. DOE seeks information on the design options incorporated into these maximum-available models, and also on the order in which manufacturers incrementally incorporate each design option when improving efficiency from the baseline to the maximum-available efficiency level (*i.e.,* which design options would be included at incremental efficiency levels between the baseline and maximum available). DOE also requests information on the design changes implemented to achieve efficiencies better than the max-tech considered in the March 2014 Final Rule analysis.

Issue 22: DOE also seeks information on the maximum-available efficiencies for the CRE for which there are no specific DOE energy conservation standards, and for which DOE does not have manufacturer-submitted efficiency information (*i.e.,* refrigerated salad bars, buffet tables, and preparation tables; solid-door equipment for pull-down applications; chef bases or griddle stands; high-temperature CRE; and CRE with dedicated remote condensing units), and on the test procedures used to determine any such efficiencies. DOE requests feedback on which design options are incorporated into the most efficient equipment available in these equipment categories.

DOE defines a max-tech efficiency level to represent the theoretical maximum possible efficiency if all available design options are incorporated in a model. In many cases, the max-tech efficiency level is not commercially available because it is not economically feasible. In the March 2014 Final Rule, DOE determined max-tech efficiency levels using energy modeling. The energy models were based on the use of all design options applicable to the specific equipment classes. While some of these equipment configurations had not likely been tested as prototypes, all of the individual design options had been incorporated in available equipment. See chapter 5 of the March 2014 Final Rule TSD for details on this approach. In its review of the CCMS data, DOE identified basic models with certified daily energy consumptions lower than the max-tech efficiency levels considered in the March 2014 Final Rule analysis.

Issue 23: DOE seeks feedback on what design options would be incorporated at a max-tech efficiency level, and the efficiencies associated with those levels, for each equipment class. As part of this request, DOE also seeks information as to whether there are limitations on the use of certain combinations of design options. DOE is particularly interested in any design options that may have become available since the March 2014 Final Rule that would allow greater energy savings relative to the max-tech efficiency levels assessed for each equipment class in that rulemaking.

Issue 24: Additionally, DOE requests comment on what design options should be considered for the max-tech efficiency levels for refrigerated salad bars, buffet tables, and preparation tables; solid-door equipment for pull-down applications; chef bases or griddle stands; high-temperature CRE; and CRE with dedicated remote condensing units, as well as other potential equipment classes not currently subject to a standard.

D. Economic Justification

In determining whether a proposed energy conservation standard is economically justified, DOE analyzes, among other things, the potential economic impact on consumers, manufacturers, and the Nation. DOE seeks comment on whether there are economic barriers to the adoption of more-stringent energy conservation standards. DOE also seeks comment and data on any other aspects of its economic justification analysis from the March 2014 Final Rule that may indicate whether a more-stringent energy conservation standard would be economically justified or cost effective.

While DOE's request for information is not limited to the following issues, DOE is particularly interested in comment, information, and data on the following.

1. Engineering Cost Analysis

For the March 2014 Final Rule, DOE developed cost-efficiency relationships by estimating the efficiency improvements and costs associated with incorporating specific design options into the assumed baseline model for each analyzed equipment class. See chapter 5 of the March 2014 Final Rule TSD for details on this approach. As a result of recent technological innovations, costs for several design options considered in the March 2014 Final Rule (*e.g.,* LED lighting and ECMs for fans) are likely to have changed since they were previously assessed.

Issue 25: DOE requests comment on the increase in manufacturer production cost associated with incorporating each particular design option from the baseline efficiency to max-tech. Specifically, DOE is interested in whether and how the costs estimated for design options in the March 2014 Final Rule have changed since the time of that analysis. DOE also requests information on the investments necessary to incorporate specific design options, including, but not limited to, costs related to new or modified tooling (if any), materials, engineering and development efforts to implement each design option, and manufacturing/production impacts.

Issue 26: DOE requests comment and supporting data on the incremental manufacturer product costs associated with transitioning to alternative refrigerants, including costs associated with converting any refrigeration system components (*e.g.,* compressors, heat

[14] Available at *https://www.regulations.doe.gov/certification-data/#q=Product_Group_s%3A*.

exchangers) and with any additional safety measures (*e.g.,* labels, ventilation fans, or leak detection sensors) that may be required to address the flammability risks of some alternative refrigerants.

DOE also seeks information on whether any updates to the approach used in the analysis supporting the March 2014 Final Rule would be appropriate based on the current CRE market. For example, customer demand for certain equipment configurations and sizes may have changed. For the March 2014 Final Rule, DOE developed cost-efficiency curves for 25 primary equipment classes based on units with typical sizes and configurations within those classes See chapter 5 and appendix 5A of the March 2014 Final Rule TSD for details on the cost-efficiency analysis, including the primary equipment class analysis and representative model configurations.

Issue 27: DOE seeks feedback on whether the 25 primary equipment classes and the corresponding representative unit configurations in the March 2014 Final Rule analysis are still appropriate for the current CRE market. If not, DOE requests information on whether representative equipment characteristics (*e.g.,* volume, dimensions, operating parameters, and controls) have significantly changed since the March 2014 Final Rule analysis.

2. Markups Analysis & Distribution Channels

In generating end-user price inputs for the life-cycle cost (''LCC'') and payback period (''PBP'') analysis and national impact analysis (''NIA''), DOE must identify distribution channels (*i.e.,* how the equipment are distributed from the manufacturer to the consumer), and estimate relative sales volumes through each channel. By applying a multiplier called a ''markup'' to the manufacturer selling price, DOE estimates the commercial consumer's price.

For the March 2014 Final Rule, DOE defined three distribution channels for CRE and estimated their respective shares of shipments: (1) From manufacturers to consumers (national account channel); (2) from manufacturers to wholesalers to consumers (wholesaler channel); and (3) from manufacturers to wholesalers to mechanical contractors and then to consumers (contractor channel). Table II.5 shows the distribution channel market shares. See chapter 6 of the March 2014 Final Rule TSD for details on this approach.

TABLE II.5—DISTRIBUTION CHANNELS MARKET SHARES

Equipment type	National account channel (%)	Wholesaler channel (%)	Contractor channel (%)
Display Cases (VOP, SVO, HZO, VCT, HCT, SOC, and PD)	70	15	15
Solid-Door Equipment (VCS and HCS)	30	60	10

Issue 28: DOE seeks input on whether the distribution channels described, and the percentage of shipments in each channel, as shown in Table II.5 of this document, are still accurate for CRE. DOE also requests data and feedback on the magnitude and impact of online sales to the CRE distribution channels. More specifically, DOE seeks input on whether the markups for online sales are significantly different from CRE sold through conventional distribution channels.

Issue 29: DOE requests similar data on the distribution channels and percentage of shipments in each channel for the other categories of CRE being considered in a potential energy conservation standards rulemaking (*i.e.,* refrigerated salad bars, buffet tables, and preparation tables; solid-door equipment for pull-down applications; chef bases or griddle stands; high-temperature CRE; and CRE with dedicated remote condensing units).

3. Life-Cycle Cost and Payback Period Analysis

DOE conducts the LCC and PBP analysis to evaluate the economic effects of potential energy conservation standards for CRE on individual consumers. For any given efficiency level, DOE measures the PBP and the change in LCC relative to an estimated baseline level. The LCC is the total consumer expense over the life of the equipment, consisting of purchase, installation, and operating costs (expenses for energy use, maintenance, and repair). Inputs to the calculation of total installed cost include the cost of the equipment—which includes the manufacturer selling price, distribution channel markups, and sales taxes—and installation costs. Inputs to the calculation of operating expenses include annual energy consumption, energy prices and price projections, repair and maintenance costs, equipment lifetimes, discount rates, and the year that compliance with new and amended standards is required.

a. Efficiency Distribution

For the March 2014 Final Rule, due to lack of data on CRE market shares by efficiency level within each of the equipment classes, DOE developed the no-new-standards case efficiency distribution of CRE according to a cost-based method that used parameters and assumptions from the EIA's National Energy Modeling System (''NEMS'').[15] DOE also used CRE market data from the ENERGY STAR program. See chapter 10 of the March 2014 Final Rule TSD for details on this approach.

Issue 30: DOE requests data regarding the current, historical, and future market shares of CRE by efficiency level (*e.g.,* expressed in terms of increments of 10 percent reduction below the MDEC in kWh/day, as determined by the current standards, specified at 10 CFR 431.62) for each equipment class.

Issue 31: DOE also seeks data on the current, historical, and future efficiency distribution of any additional categories of CRE under consideration broken out by efficiency for potential standards (*i.e.,* refrigerated salad bars, buffet tables, and preparation tables; solid-door equipment for pull-down applications; chef bases or griddle stands; high-temperature CRE; and CRE with dedicated remote condensing units).

b. Installation Costs

For the March 2014 Final Rule, DOE estimated different installation costs for remote condensing and self-contained CRE but assumed that installation costs do not vary with efficiency levels in any equipment class. Therefore, installation costs did not impact the LCC or PBP analysis. See chapter 8 of the March 2014 Final Rule TSD.

Issue 32: DOE requests comment on whether any market or technology

[15] U.S. Department of Energy, Energy Information Administration. Commercial Demand Module of the National Energy Modeling System: Model Documentation 2012 DOE/EIA–M066. 2012. Washington, DC

changes since the March 2014 Final Rule would indicate that installation costs vary by efficiency level, and, if so, what the factors and technologies affecting installation costs are, and how costs vary as CRE efficiency increases, for each equipment class.

Issue 33: DOE also requests comment and data on installation costs for any additional categories of CRE under consideration for potential standards (*i.e.,* refrigerated salad bars, buffet tables, and preparation tables; solid-door equipment for pull-down applications; chef bases or griddle stands; high-temperature CRE; and CRE with dedicated remote condensing units).

c. Repair and Maintenance Costs

Maintenance costs are associated with maintaining equipment's operation, whereas repair costs are associated with repairing or replacing components that have failed in a refrigeration system and envelope (*i.e.,* panels and doors). In the March 2014 Final Rule, DOE estimated maintenance and repair costs as annualized values applied over the life of the considered equipment. For maintenance costs, DOE considered lamp replacements and other lighting maintenance activities as required maintenance for CRE, with varying costs by efficiency level. For repair costs, DOE considered costs for component failures (*i.e.,* evaporator fans, condenser fans, compressors, coils, doors) during the lifetime of CRE, which varied by efficiency level. 79 FR 17726, 17766; see chapter 8 of the March 2014 Final Rule TSD for details on this approach.

Issue 34: DOE seeks comment and data on whether it should estimate maintenance and repair costs for CRE based on the March 2014 Final Rule approach in a potential future rulemaking for CRE, considering any additional technology options discussed in this RFI, and any market and technology changes since the March 2014 Final Rule. In particular, DOE is interested in data on the maintenance and repair costs of CRE with alternative refrigerants, and how those vary, if at all, compared to CRE with traditionally used refrigerants.

Issue 35: DOE also requests comment and data on maintenance and repair costs for any additional categories of CRE under consideration for potential standards (*i.e.,* refrigerated salad bars, buffet tables, and preparation tables; solid-door equipment for pull-down applications; chef bases or griddle stands; high-temperature CRE; and CRE with dedicated remote condensing units).

d. Equipment Lifetimes

The equipment lifetime is the age at which the equipment is retired from service. In the March 2014 Final Rule, DOE based its estimates of CRE lifetime on discussions with industry experts and assumed a 10-year average lifetime for most CRE in large grocery/multi-line stores and restaurants. For small food retail stores and other small businesses, DOE used a 15-year average lifetime to account for longer consumer usage of CRE. DOE reflects the uncertainty of equipment lifetimes in the LCC analysis for both equipment markets by using probability distributions. 79 FR 17726, 17766; see chapter 8 of the March 2014 Final Rule TSD for details on this approach.

Issue 36: DOE requests comment and data on whether any market and technology changes since the March 2014 Final Rule would affect its equipment lifetime estimates for CRE for which DOE currently has standards, and if so, how.

Issue 37: DOE also requests comment and data on lifetimes of any additional categories of CRE under consideration for potential standards (*i.e.,* refrigerated salad bars, buffet tables, and preparation tables; solid-door equipment for pull-down applications; chef bases or griddle stands; high-temperature CRE; and CRE with dedicated remote condensing units).

4. Net Present Value

To develop the national NPV from potential standards, DOE calculates annual energy expenditures and annual equipment expenditures for the no-new-standards case and the standards case. The discounted difference between energy bill savings and increased equipment expenditures in each year is the NPV.

In the March 2014 Final Rule, DOE developed an equipment price trend for CRE, based on the inflation-adjusted index of the producer price index (''PPI'') for air conditioning, refrigeration, and forced air heating from 1978 to 2012,[16] which showed a slight downward trend. DOE projected a future trend in the analysis period by extrapolating the historic trend using linear regression. Were DOE to conduct a rulemaking, DOE may consider incorporating price trends for certain design options that may experience price declines during the analysis period (*e.g.,* LED lighting and ECM fan motors).

Issue 38: DOE requests comment on its approach for projecting a long-term price trend for CRE, as well as on the merits of incorporating price trends for certain design options that may experience price declines during the expected 30-year analysis period, following potential future energy conservation standards for CRE.

5. Manufacturer Impact Analysis

The purpose of the manufacturer impact analysis (''MIA'') is to estimate the financial impact of amended energy conservation standards on manufacturers of CRE, and to evaluate the potential impact of such standards on direct employment and manufacturing capacity. As part of the MIA, DOE intends to analyze impacts of amended energy conservation standards on subgroups of manufacturers of covered equipment, including small business manufacturers. DOE uses the Small Business Administration's (''SBA'') small business size standards to determine whether manufacturers qualify as small businesses, which are listed by the North American Industry Classification System (''NAICS'').[17] Manufacturing of CRE is classified under NAICS 333415, ''Air-conditioning and warm air heating equipment and commercial and industrial refrigeration equipment manufacturing,'' and the SBA sets a threshold of 1,250 employees or less for a domestic entity to be considered as a small business. This employee threshold includes all employees in a business' parent company and any other subsidiaries.

One aspect of assessing manufacturer burden involves examining the cumulative impact of multiple DOE standards and the product-specific regulatory actions of other Federal agencies that affect the manufacturers of a covered product or equipment. In addition to energy conservation standards, other regulations can significantly affect manufacturers' financial operations. Multiple regulations affecting the same manufacturer can strain profits and lead companies to abandon product lines or markets with lower expected future returns than competing products. For these reasons, DOE conducts an analysis of cumulative regulatory burden as part of its rulemakings pertaining to appliance efficiency.

Issue 39: To the extent feasible, DOE seeks the names and contact information of any domestic or foreign-based manufacturers that distribute CRE in the United States.

Issue 40: DOE requests the names and contact information of small business

[16] Bureau of Labor Statistics, Producer Price Index Industry Data, Series: PCU3334153334153.

[17] Available online at: *https://www.sba.gov/sites/default/files/files/Size_Standards_Table.pdf.*

CRE manufacturers, as defined by the SBA's size threshold that distribute equipment in the United States. In addition, DOE requests comment on any other manufacturer subgroups that could disproportionally be impacted by amended energy conservation standards. DOE requests feedback on any potential approaches that could be considered to address impacts on manufacturers, including small businesses.

Issue 41: DOE requests information regarding the cumulative regulatory burden impacts on manufacturers of CRE associated with (1) other DOE standards applying to different products or equipment that these manufacturers may also make, and (2) equipment-specific regulatory actions of other Federal agencies. DOE also requests comment on its methodology for computing cumulative regulatory burden and whether there are any flexibilities it can consider that would reduce this burden while remaining consistent with the requirements of EPCA.

III. Submission of Comments

DOE invites all interested parties to submit in writing by the date under the **DATES** heading, comments and information on matters addressed in this notification and on other matters relevant to DOE's early assessment of whether more-stringent energy conservation standards are not warranted for CRE.

Submitting comments via https://www.regulations.gov. The *https://www.regulations.gov* web page requires 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. If this instruction is followed, 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 *https://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 *https://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 *https://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 *https://www.regulations.gov* provides after you have successfully uploaded your comment.

Submitting comments via email. Comments and documents submitted via email also will be posted to *https://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 in 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. Faxes will not 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. Pursuant 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 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. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

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 test procedures and energy conservation standards. 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.*

Signing Authority

This document of the Department of Energy was signed on July 9, 2021, by Kelly Speakes-Backman, Principal Deputy Assistant Secretary and Acting Assistant Secretary for Energy Efficiency and Renewable Energy, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on July 9, 2021.

Treena V. Garrett,

Federal Register Liaison Officer, U.S. Department of Energy.

[FR Doc. 2021–14977 Filed 7–15–21; 8:45 am]

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

[Docket No. DEA–495]

Schedules of Controlled Substances: Placement of N-Ethylhexedrone, alpha-Pyrrolidinohexanophenone, 4-Methyl-alpha-ethylaminopentiophenone, 4′-Methyl-alpha-pyrrolidinohexiophenone, alpha-Pyrrolidinoheptaphenone, and 4′-Chloro-alpha-pyrrolidinovalerophenone in Schedule I

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Drug Enforcement Administration proposes placing six synthetic cathinones, as identified in this proposed rule, in schedule I of the Controlled Substances Act. If finalized, this action would make permanent the existing regulatory controls and administrative, civil, and criminal sanctions applicable to schedule I controlled substances on persons who handle (manufacture, distribute, reverse distribute, import, export, engage in research, conduct instructional activities or chemical analysis, or possess), or propose to handle these six specified controlled substances.

DATES: Comments must be submitted electronically or postmarked on or before August 16, 2021.

Requests for hearing and waivers of an opportunity for a hearing or to participate in a hearing must be received on or before August 16, 2021.

ADDRESSES: To ensure proper handling of comments, please reference ''Docket No. DEA–495'' on all electronic and written correspondence, including any attachments.

• *Electronic comments:* The Drug Enforcement Administration (DEA) encourages that all comments be submitted electronically through the Federal eRulemaking Portal which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to *http://www.regulations.gov* and follow the online instructions at that site for submitting comments. Upon completion of your submission you will receive a Comment Tracking Number for your comment. Please be aware that submitted comments are not instantaneously available for public view on *Regulations.gov*. If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment.

• *Paper comments:* Paper comments that duplicate the electronic submission are not necessary. Should you wish to mail a paper comment, *in lieu of* an electronic comment, it should be sent via regular or express mail to: Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152.

• *Hearing requests:* All requests for a hearing and waivers of participation, together with a written statement of position on the matters of fact and law asserted in the hearing, must be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for hearing and waivers of participation should also be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152.

FOR FURTHER INFORMATION CONTACT: Terrence L. Boos, Ph.D., Drug and Chemical Evaluation Section, Drug Enforcement Administration; Telephone: (571) 362–3249.

SUPPLEMENTARY INFORMATION:

In this proposed rule, the Drug Enforcement Administration (DEA) proposes to permanently schedule the following six controlled substances in schedule I of the Controlled Substances Act (CSA), including their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

• *N*-ethylhexedrone (other names: α-ethylaminohexanophenone, ethyl hexedrone, HEXEN, 2-(ethylamino)-1-phenylhexan-1-one),

• *alpha*-pyrrolidinohexanophenone (other names: α-pyrrolidino-hexanophenone, *alpha*-PHP, α-PHP, PV7, 1-phenyl-2-(pyrrolidin-1-yl)hexan-1-one),

• 4-methyl-*alpha*-ethylaminopentiophenone (other names: *N*-ethyl-4-methylnorpentedrone, 4-methyl-α-ethylaminopentiophenone, 4-MEAP, 2-(ethylamino)-1-(4-methylphenyl)pentan-1-one),

• 4′-methyl-*alpha*-pyrrolidinohexiophenone (other names: 4′-methyl-α-PHP, 4′-methyl PHP, PV4, 4-MPHP, MPHP, 4-methyl-*alpha*-pyrrolidino hexanophenone, 1-(4-methylphenyl)-2-(pyrrolidin-1-yl)hexan-1-one),

• *alpha*-pyrrolidinoheptaphenone (other names: *alpha*-pyrrolidinoheptiophenone, *alpha*-PHpP, PV8, 1-phenyl-2-(pyrrolidin-1-yl)heptan-1-one), and

• 4′-chloro-*alpha*-pyrrolidinovalerophenone (other names: 4-chloro-α-pyrrolidinopentiophenone, 4-chloro-α-PVP, 4-Cl-α-PVP, 4-chloro-2-(1-pyrrolidinyl)-valerophenone, 1-(4-chlorophenyl)-2-(pyrrolidin-1-yl)pentan-1-one).

Posting of Public Comments

Please note that all comments received in response to this docket are considered part of the public record. They will, unless reasonable cause is given, be made available by DEA for public inspection online at *http://www.regulations.gov*. Such information includes personal identifying information (such as your name, address, etc.) voluntarily submitted by the commenter. The Freedom of Information Act applies to all comments received. If you want to submit personal identifying information (such as your name, address, etc.) as part of your comment, but do not want it to be made publicly available, you must include the phrase ''PERSONAL IDENTIFYING INFORMATION'' in the first paragraph of your comment. You must also place all of the personal identifying information you do not want made publicly available in the first paragraph of your comment and identify what information you want redacted.

If you want to submit confidential business information as part of your comment, but do not want it to be made publicly available, you must include the phrase ''CONFIDENTIAL BUSINESS INFORMATION'' in the first paragraph of your comment. You must also prominently identify the confidential business information to be redacted within the comment.

Comments containing personal identifying information or confidential business information identified as directed above will be made publicly available in redacted form. If a comment has so much confidential business information that it cannot be effectively redacted, all or part of that comment may not be made publicly available. Comments posted to *http://www.regulations.gov* may include any

personal identifying information (such as name, address, and phone number) included in the text of your electronic submission that is not identified as directed above as confidential.

An electronic copy of this document and supplemental information to this proposed rule are available at *http://www.regulations.gov* for easy reference.

Request for Hearing or Waiver of Particpation in Hearing

Pursuant to 21 U.S.C. 811(a), this action is a formal rulemaking ''on the record after opportunity for a hearing.'' Such proceedings are conducted pursuant to the provisions of the Administrative Procedure Act, 5 U.S.C. 551–559. 21 CFR 1308.41–1308.45; 21 CFR part 1316, subpart D. Interested persons may file requests for hearing or notices of intent to participate in a hearing in conformity with the requirements of 21 CFR 1308.44(a) or (b), and include a statement of interest in the proceeding and the objections or issues, if any, concerning which the person desires to be heard. Any interested person may file a waiver of an opportunity for a hearing or to participate in a hearing together with a written statement regarding the interested person's position on the matters of fact and law involved in any hearing as set forth in 21 CFR 1308.44(c).

All requests for a hearing and waivers of participation, together with a written statement of position on the matters of fact and law involved in such hearing, must be sent to DEA using the address information provided above.

Legal Authority

The CSA provides that proceedings for the issuance, amendment, or repeal of the scheduling of any drug or other substance may be initiated by the Attorney General on his own motion. 21 U.S.C. 811(a). This proposed action is supported by a recommendation from the Assistant Secretary for Health of the Department of Health and Human Services (HHS) and an evaluation of all other relevant data by DEA. If finalized, this action would make permanent the existing temporary regulatory controls and administrative, civil, and criminal sanctions for schedule I controlled substances on any person who handles (manufactures, distributes, imports, exports, engages in research, conducts instructional activities or chemical analysis, or possesses) or proposes to handle *N*-ethylhexedrone, α-PHP, 4-MEAP, MPHP, PV8, or 4-chloro-α-PVP.

Background

On July 18, 2019, pursuant to 21 U.S.C. 811(h)(1), DEA published an order in the **Federal Register** (84 FR 34291) temporarily placing *N*-ethylhexedrone, *alpha*-pyrrolidinohexanophenone (α-PHP), 4-methyl-*alpha*-ethylaminopentiophenone (4-MEAP), 4′-methyl-*alpha*-pyrrolidinohexiophenone (MPHP), *alpha*-pyrrolidinoheptaphenone (PV8), and 4′-chloro-*alpha*-pyrrolidinovalerophenone (4-chloro-α-PVP) in schedule I of the CSA upon finding that these synthetic cathinones pose an imminent hazard to the public safety. That temporary order was effective on the date of publication. Pursuant to 21 U.S.C. 811(h)(2), the temporary control of these substances is set to expire on July 18, 2021. However, this same subsection also provides that, during the pendency of proceedings under 21 U.S.C. 811(a)(1) with respect to a substance, the temporary scheduling of that substance may be extended for up to one year. Proceedings for the scheduling of a substance under 21 U.S.C. 811(a) may be initiated by the Attorney General (delegated to the Administrator of DEA (Administrator) pursuant to 28 CFR 0.100) on his own motion, at the request of the Secretary of HHS,[1] or on the petition of any interested party. An extension of the existing temporary order is being ordered by the Administrator in a separate action, and is being simultaneously published elsewhere in this issue of the **Federal Register**.

The Administrator, on her own motion, is initiating proceedings under 21 U.S.C. 811(a)(1) to permanently schedule *N*-ethylhexedrone, α-PHP, 4-MEAP, MPHP, PV8, and 4-chloro-α-PVP. DEA has gathered and reviewed the available information regarding the pharmacology, chemistry, trafficking, actual abuse, pattern of abuse, and the relative potential for abuse for these synthetic cathinones. On October 22, 2020, the Acting Administrator of DEA submitted a request to the Assistant Secretary for Health of HHS (Assistant Secretary) to provide DEA with a scientific and medical evaluation of available information and a scheduling recommendation for *N*-ethylhexedrone, α-PHP, 4-MEAP, MPHP, PV8, and 4-chloro-α-PVP, in accordance with 21 U.S.C. 811(b) and (c). Upon evaluating the scientific and medical evidence, on July 8, 2021, the Assistant Secretary submitted to the Acting Administrator HHS's scientific and medical evaluation and scheduling recommendation for these substances. Upon receipt of the scientific and medical evaluation and scheduling recommendation from HHS, DEA reviewed the document and all other relevant data, and conducted its own eight-factor analysis of the abuse potential of *N*-ethylhexedrone, α-PHP, 4-MEAP, MPHP, PV8, and 4-chloro-α-PVP in accordance with 21 U.S.C. 811(c).

Proposed Determination of Schedule *N*-Ethylhexedrone, α-PHP, 4-MEAP, MPHP, PV8, and 4-Chloro-α-PVP

As discussed in the background section, the Administrator is initiating proceedings, pursuant to 21 U.S.C. 811(a)(1), to add *N*-ethylhexedrone, α-PHP, 4-MEAP, MPHP, PV8, and 4-chloro-α-PVP permanently to schedule I. DEA has reviewed the scientific and medical evaluation and scheduling recommendation, received from HHS, and all other relevant data and conducted its own eight-factor analysis of the abuse potential of *N*-ethylhexedrone, α-PHP, 4-MEAP, MPHP, PV8, and 4-chloro-α-PVP pursuant to 21 U.S.C. 811(c). Included below is a brief summary of each factor as analyzed by HHS and DEA, and as considered by DEA in its proposed scheduling action. Please note that both the DEA and the HHS 8-Factor analyses and the Assistant Secretary's July 8, 2021 letter are available in their entirety under the tab ''Supporting Documents'' of the public docket of this rulemaking action at *http://www.regulations.gov,* under Docket Number ''DEA–495.''

1. *The Drug's Actual or Relative Potential for Abuse:* Both the DEA and the HHS 8-factor analyses found that *N*-ethylhexedrone, α-PHP, 4-MEAP, MPHP, PV8, and 4-chloro-α-PVP have abuse potential associated with its abilities to produce psychoactive effects that are similar to those produced by schedule I synthetic cathinones such as methcathinone, mephedrone, methylone, pentylone, and 3,4-methylenedioxypyrovalerone (MDPV) and schedule II stimulants such as methamphetamine and cocaine that have a high potential for abuse. In particular, the responses in humans to *N*-ethylhexedrone, α-PHP, 4-MEAP, MPHP, PV8, and 4-chloro-α-PVP are stimulant-like and include paranoia, agitation, palpitations, tachycardia, hypertension, and hyperthermia.

N-Ethylhexedrone, α-PHP, 4-MEAP, MPHP, PV8, and 4-chloro-α-PVP have no approved medical uses in the United

[1] Because the Secretary of HHS has delegated to the Assistant Secretary for Health (Assistant Secretary) the authority to make domestic drug scheduling recommendations, for purposes of this proposed rulemaking, all subsequent references to ''Secretary'' have been replaced with ''Assistant Secretary.''

States but there have been reports of individuals experiencing adverse outcomes after taking these substances. Because these substances are not approved drug products, a practitioner may not legally prescribe them, and they cannot be dispensed to an individual. The use of these substances without medical advice leads to the conclusion that these synthetic cathinones are being abused for their psychoactive properties.

Reports from public health and law enforcement state that these substances are being abused and taken in amounts sufficient to create a hazard to an individual's health. This hazard is evidenced by emergency department admissions or deaths, representing a significant safety issue for those in the community. Further, from January 2012 through December 2020 (query date: May 3, 2021), the National Forensic Laboratory Information System (NFLIS) databases registered a total of 2,289 reports by participating DEA, State, local, and other forensic laboratories, as applicable, pertaining to *N*-ethylhexedrone, α-PHP, 4-MEAP, MPHP, PV8, and 4-chloro-α-PVP.[2] NFLIS registered these reports identifying these substances in drug-related exhibits from more than 40 States. MPHP was first identified in June 2012 in seized drug evidence (although MPHP was identified in blood samples from a 27-year-old decedent in 2011), followed by 4-MEAP and PV8 (August and December 2013, respectively), alpha-PHP (May 2014), 4-chloro-α-PVP (December 2015) and most recently *N*-ethylhexedrone (August 2016). Consequently, the data indicate that *N*-ethylhexedrone, α-PHP, 4-MEAP, MPHP, PV8, and 4-chloro-α-PVP are being abused, and they present safety hazards to the health of individuals who consume them due to their stimulant properties.

2. *Scientific Evidence of the Drug's Pharmacological Effects, if Known:* As described by HHS, studies show that *N*-ethylhexedrone, α-PHP, 4-MEAP, MPHP, PV8, and 4-chloro-α-PVP produce pharmacological effects that are similar to those produced by schedule I and II substances such as methamphetamine (II), cocaine (II), mephedrone (I), MDPV (I), and methylone (I). Similar to these schedule I and II substances, *N*-ethylhexedrone, α-PHP, 4-MEAP, MPHP, PV8, and 4-chloro-α-PVP bind to monoamine transporters for dopamine and norepinephrine, and block the uptake of these neurotransmitters at their transporters. *N*-Ethylhexedrone, α-PHP, and MPHP (4-MEAP, PV8, and 4-chloro-α-PVP were not tested in this assay) do not promote the release of these monoamines. Additionally, behavioral studies in animals demonstrate that *N*-ethylhexedrone, α-PHP, 4-MEAP, MPHP, PV8, and 4-chloro-α-PVP produce locomotor behavior and discriminative stimulus effects that are similar to those of methamphetamine and cocaine. Overall, these data indicate that *N*-ethylhexedrone, α-PHP, 4-MEAP, MPHP, PV8, and 4-chloro-α-PVP produce pharmacological effects and stimulant-like behaviors that are similar to those of other schedule I synthetic cathinones such as methcathinone, mephedrone, MDPV, and methylone, as well as schedule II stimulants methamphetamine and cocaine.

3. *The State of Current Scientific Knowledge Regarding the Drug or Other Substance: N*-Ethylhexedrone, α-PHP, 4-MEAP, MPHP, PV8, and 4-chloro-α-PVP are designer drugs of the phenethylamine class and they are structurally similar to permanently controlled schedule I synthetic cathinones and schedule II stimulants like methamphetamine.

Pharmacokinetic studies show that humans, in general, metabolize synthetic cathinones to their corresponding amphetamines followed by reduction of the beta-keto group to the corresponding alcohol which can involve hydrogenation, deethylation, demethylation, or hydroxylation. Given that *N*-ethylhexedrone, α-PHP, 4-MEAP, MPHP, PV8, and 4-chloro-α-PVP are synthetic cathinones, it is likely that these six synthetic cathinones are also metabolized to their corresponding amphetamines and alcohols.

Neither DEA nor HHS is aware of any currently accepted medical use for *N*-ethylhexedrone, α-PHP, 4-MEAP, MPHP, PV8, and 4-chloro-α-PVP. According to HHS's 2021 scientific and medical evaluation and scheduling recommendation, the Food and Drug Administration (FDA) has not approved marketing applications for drug products containing *N*-ethylhexedrone, α-PHP, 4-MEAP, MPHP, PV8, and 4-chloro-α-PVP for any therapeutic indication, nor is HHS aware of any reports of clinical studies or claims of accepted medical use for *N*-ethylhexedrone, α-PHP, 4-MEAP, MPHP, PV8, and 4-chloro-α-PVP in the United States.

A drug has a ''currently accepted medical use'' if DEA concludes that it satisfies a five-part test. Specifically, with respect to a drug that has not been approved by FDA, all of the following must be demonstrated: The drug's chemistry is known and reproducible; there are adequate safety studies; there are adequate and well-controlled studies proving efficacy; the drug is accepted by qualified experts; and the scientific evidence is widely available.[3] Based on this analysis, *N*-ethylhexedrone, α-PHP, 4-MEAP, MPHP, PV8, and 4-chloro-α-PVP have no currently accepted medical use in the United States. Furthermore, DEA has not found any references regarding clinical testing of these substances in the scientific and medical literature. Although the chemistry of synthetic cathinones, in general, is known and has been reproduced, as mentioned above there are no clinical studies involving *N*-ethylhexedrone, α-PHP, 4-MEAP, MPHP, PV8, and 4-chloro-α-PVP. Taken together with HHS's conclusion, DEA finds that there is no legitimate medical use for *N*-ethylhexedrone, α-PHP, 4-MEAP, MPHP, PV8, and 4-chloro-α-PVP in the United States.

4. *History and Current Pattern of Abuse:* Available evidence suggests that the history and pattern of abuse of *N*-ethylhexedrone, α-PHP, 4-MEAP, MPHP, PV8, and 4-chloro-α-PVP parallel that of permanently controlled schedule I cathinone stimulants. *N*-ethylhexedrone, α-PHP, 4-MEAP, MPHP, PV8, and 4-chloro-α-PVP are synthetic cathinones of the phenethylamine class and they are structurally and pharmacologically similar to schedule I and II substances such as methcathinone (I) and methamphetamine (II). Like these schedule I and II substances, *N*-ethylhexedrone, α-PHP, 4-MEAP, MPHP, PV8, and 4-chloro-α-PVP are most likely ingested by swallowing capsules or tablets or snorted by nasal insufflation of the powder tablets. As reported by DEA and HHS, products containing *N*-ethylhexedrone, α-PHP, 4-MEAP, MPHP, PV8, or 4-chloro-α-PVP, similar to schedule I synthetic cathinones, are likely to be falsely marketed as ''research chemicals,'' ''jewelry cleaner,'' ''stain remover,'' ''plant food or fertilizer,'' ''insect repellants,'' or ''bath salts;'' sold at smoke shops, head shops, convenience stores, adult book stores, or gas stations; and purchased on the internet. Like those seen with commercial products

[2] NFLIS is a national drug forensic laboratory reporting system that systematically collects results from drug chemistry analyses conducted by state and local forensic laboratories across the country. The NFLIS participation rate, defined as the percentage of the national drug caseload represented by laboratories that have joined NFLIS, is over 97 percent. NFLIS includes drug chemistry results from completed analyses only.

[3] 57 FR 10499 (1992), *pet. for rev. denied, Alliance for Cannabis Therapeutics* v. *DEA,* 15 F.3d 1131, 1135 (D.C. Cir. 1994).

that contain synthetic cathinones, the packages of products that contain *N*-ethylhexedrone, α-PHP, 4-MEAP, MPHP, PV8, or 4-chloro-α-PVP also probably contain the warning ''not for human consumption,'' most likely in an effort to circumvent statutory restrictions for these substances. Law enforcement data indicate that *N*-ethylhexedrone, α-PHP, 4-MEAP, MPHP, PV8, and 4-chloro-α-PVP are available for illicit use and are being abused. Demographic data collected from published reports and mortality records suggest that the main users of *N*-ethylhexedrone, α-PHP, 4-MEAP, MPHP, PV8, and 4-chloro-α-PVP, similar to other schedule I synthetic cathinones permanently placed in schedule I, are young adults. Toxicology reports also revealed that *N*-ethylhexedrone, α-PHP, 4-MEAP, MPHP, PV8, and 4-chloro-α-PVP are being ingested with other substances including other synthetic cathinones, common cutting agents, or other recreational substances. Consequently, products containing synthetic cathinones, including *N*-ethylhexedrone, α-PHP, 4-MEAP, MPHP, PV8, or 4-chloro-α-PVP, are distributed to users, often with unpredictable outcomes. Thus, the recreational abuse of *N*-ethylhexedrone, α-PHP, 4-MEAP, MPHP, PV8, and 4-chloro-α-PVP is a significant concern. These data indicate that *N*-ethylhexedrone, α-PHP, 4-MEAP, MPHP, PV8, and 4-chloro-α-PVP have a history and current pattern of abuse.

5. *Scope, Duration and Significance of Abuse: N*-ethylhexedrone, α-PHP, 4-MEAP, MPHP, PV8, and 4-chloro-α-PVP are recreational drugs that emerged on the United States' illicit drug market after the scheduling of other synthetic cathinones (*e.g., N*-ethylpentylone, ethylone, mephedrone, methylone, pentylone, and MDPV) (*see* DEA's Eight Factor Analysis for a full discussion). Forensic laboratories have confirmed the presence of *N*-ethylhexedrone, α-PHP, 4-MEAP, MPHP, PV8, and 4-chloro-α-PVP in drug exhibits received from Federal, State, and local law enforcement agencies. MPHP was first identified in June 2012 in seized drug evidence (although MPHP was identified in blood samples from a 27-year-old decedent in 2011—*see* Factor 6 for details), followed by 4-MEAP and PV8 (August and December 2013, respectively), alpha-PHP (May 2014), 4-chloro-α-PVP (December 2015) and most recently *N*-ethylhexedrone (August 2016). From January 2012 through December 2020 (query date: May 3, 2021), NFLIS database registered a total of 2,289 reports from forensic laboratories pertaining to the 6 synthetic cathinones (*N*-ethylhexedrone, 613 reports; α-PHP—984 reports; 4-MEAP—131 reports; MPHP—92 reports; PV8—174 reports; and 4-chloro-α-PVP—295 reports). HHS reported that there were 13,238 calls to United States poison control centers (PCCs) [4] involving synthetic cathinones from 2010 to 2019 and 39 mentions of cathinones of which 23 were for α-PHP on the Dashboard [5] from July 2018 to July 2020. Accordingly, concerns over the continuing abuse of synthetic cathinones have led to the control of many synthetic cathinones. A full presentation of the NFLIS reports by substance and year, PCC, and Dashboard data are available in both DEA's and HHS's eight-factor analyses within the Supporting Documents section of the public docket available at *http://www.regulations.gov*.

6. *What, if Any, Risk There Is to the Public Health:* HHS reported that the public health risks of *N*-ethylhexedrone, α-PHP, 4-MEAP, MPHP, PV8, and 4-chloro-α-PVP result from their ability to induce stimulant-like responses, which may lead to impaired judgement and dangerous behavior. Adverse health effects associated with the abuse of *N*-ethylhexedrone, α-PHP, 4-MEAP, MPHP, PV8, and 4-chloro-α-PVP include a number of stimulant-like adverse health effects such as diaphoresis, insomnia, mydriasis, hyperthermia, vomiting, agitation, disorientation, paranoia, and abdominal pain. Serious adverse events such as acute kidney failure, cardiac arrest, rhabdomyolysis, and coma have been associated with the use of *N*-ethylhexedrone, α-PHP, 4-MEAP, and PV8. In addition, *N*-ethylhexedrone, α-PHP, MPHP, and PV8 have been involved in the deaths of individuals. The identification of *N*-ethylhexedrone, α-PHP, 4-MEAP, MPHP, PV8, or 4-chloro-α-PVP in toxicological samples associated with fatal and non-fatal overdoses as reported in the medical and scientific literature, forensic laboratory reports, and public health documents confirms these adverse effects of *N*-ethylhexedrone, α-PHP, 4-MEAP, MPHP, PV8, or 4-chloro-α-PVP. Like schedule I synthetic cathinones, *N*-ethylhexedrone, α-PHP, 4-MEAP, MPHP, PV8, and 4-chloro-α-PVP have caused acute health problems leading to emergency department (ED) admissions, violent behaviors causing harm to self or others, and/or death. Specifically, evidence demonstrate that all six synthetic cathinones have resulted in ED visits that required medical attention, but only *N*-ethylhexedrone, α-PHP, MPHP, and PV8 abuse have been associated with the deaths of individuals. It remains highly likely that additional cases of adverse health effects involving *N*-ethylhexedrone, α-PHP, 4-MEAP, MPHP, PV8, and 4-chloro-α-PVP in the United States have occurred and will continue to be under-reported as these substances are not part of standard panels for toxicological analyses of biological specimens. Thus, the abuse of *N*-ethylhexedrone, α-PHP, 4-MEAP, MPHP, PV8, and 4-chloro-α-PVP, like that of the abuse of schedule I synthetic cathinones and stimulant drugs, poses significant adverse health risks including death.

Furthermore, because abusers of synthetic cathinones obtain these substances through unregulated sources, the identity, purity, and quantity are uncertain and inconsistent. These unknown factors pose an additional risk for significant adverse health effects to the end user.

Based on information received by DEA, the abuse of *N*-ethylhexedrone, α-PHP, 4-MEAP, MPHP, PV8, and 4-chloro-α-PVP has led to, at least, the same qualitative public health risks as other schedule I synthetic cathinones and the schedule II stimulant methamphetamine. The public health risks attendant to the abuse of synthetic cathinones, including *N*-ethylhexedrone, α-PHP, 4-MEAP, MPHP, PV8, or 4-chloro-α-PVP, are well established and have resulted in large numbers of ED visits and fatal overdoses.

7. *Its Psychic or Physiological Dependence Liability:* According to HHS, the psychic or physiological dependence liability of *N*-ethylhexedrone, α-PHP, 4-MEAP, MPHP, PV8, and 4-chloro-α-PVP is demonstrated by their positive abuse-related studies in animals and reported stimulant effects in humans. The results from two behavioral studies (drug discrimination and locomotor studies) demonstrate that *N*-ethylhexedrone, α-PHP, 4-MEAP, MPHP, PV8, or 4-chloro-α-PVP produced behavioral effects that are similar to those of substances with

[4] PCC data are derived from the National Poison Data System, a database managed by the American Association of Poison Control Centers (AAPCC). AAPCC is a nationwide network of PCCs that receive calls from individuals, healthcare professionals, and other interested persons in the general U.S. population regarding exposures to prescription drugs and other substances.

[5] The Dashboard is an online, interactive tool that reports on the identification of certain novel psychoactive substances in de-identified sample extracts from forensic investigations, including medicolegal death investigations and toxicology testing. The Dashboard was accessed on February 26, 2021.

stimulant effects such as the schedule II stimulants cocaine and methamphetamine. Thus, based on the structural and pharmacological similarities of *N*-ethylhexedrone, α-PHP, 4-MEAP, MPHP, PV8, and 4-chloro-α-PVP to schedule II stimulant substances that have demonstrated psychic or physiological dependence liability, it is anticipated that the stimulant properties of *N*-ethylhexedrone, α-PHP, 4-MEAP, MPHP, PV8, and 4-chloro-α-PVP produce psychic dependence liability.

8. *Whether the Substance is an Immediate Precursor of a Substance Already Controlled Under the CSA: N*-Ethylhexedrone, α-PHP, 4-MEAP, MPHP, PV8, and 4-chloro-α-PVP are not immediate precursors of any controlled substance under the CSA as defined by 21 U.S.C. 802(23).

Conclusion: After considering the scientific and medical evaluation conducted by HHS, HHS's scheduling recommendation, and DEA's own eight-factor analysis, DEA finds that the facts and all relevant data constitute substantial evidence of the potential for abuse of *N*-ethylhexedrone, α-PHP, 4-MEAP, MPHP, PV8, and 4-chloro-α-PVP. As such, DEA hereby proposes to permanently schedule *N*-ethylhexedrone, α-PHP, 4-MEAP, MPHP, PV8, and 4-chloro-α-PVP as controlled substances under the CSA.

Proposed Determination of Appropriate Schedule

The CSA establishes five schedules of controlled substances known as schedules I, II, III, IV, and V. The CSA also outlines the findings required to place a drug or other substance in any particular schedule. 21 U.S.C. 812(b). After consideration of the analysis and recommendation of the Assistant Secretary for Health of HHS and review of all other available data, the Administrator of DEA, pursuant to 21 U.S.C. 811(a) and 812(b)(1), finds that:

1. *N*-ethylhexedrone, α-PHP, 4-MEAP, MPHP, PV8, and 4-chloro-α-PVP have a high potential for abuse;

2. *N*-ethylhexedrone, α-PHP, 4-MEAP, MPHP, PV8, and 4-chloro-α-PVP have no currently accepted medical use in treatment in the United States; and

3. There is a lack of accepted safety for use of *N*-ethylhexedrone, α-PHP, 4-MEAP, MPHP, PV8, and 4-chloro-α-PVP under medical supervision.

Based on these findings, the Administrator concludes that *N*-ethylhexedrone, α-PHP, 4-MEAP, MPHP, PV8, and 4-chloro-α-PVP, including their salts, isomers, and salts of isomers, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation, warrant control in schedule I of the CSA. 21 U.S.C. 812(b)(1).

Requirements for Handling *N*-Ethylhexedrone, α-PHP, 4-MEAP, MPHP, PV8, and 4-Chloro-α-PVP

If this rule is finalized as proposed, *N*-ethylhexedrone, α-PHP, 4-MEAP, MPHP, PV8, or 4-chloro-α-PVP would continue [6] to be subject to the CSA's schedule I regulatory controls and administrative, civil, and criminal sanctions applicable to the manufacture, distribution, reverse distribution, importation, exportation, research, and conduct of instructional activities involving the handling of schedule I controlled substances including the following:

1. *Registration.* Any person who handles (manufactures, distributes, reverse distributes, imports, exports, engages in research, or conducts instructional activities or chemical analysis with, or possesses) or who desires to handle *N*-ethylhexedrone, α-PHP, 4-MEAP, MPHP, PV8, or 4-chloro-α-PVP is required to be registered with DEA to conduct such activities pursuant to 21 U.S.C. 822, 823, 957, and 958, and in accordance with 21 CFR parts 1301 and 1312.

2. *Security. N*-ethylhexedrone, α-PHP, 4-MEAP, MPHP, PV8, and 4-chloro-α-PVP are subject to schedule I security requirements and must be handled and stored pursuant to 21 U.S.C. 823 and in accordance with 21 CFR 1301.71–1301.76. Non-practitioners handling *N*-ethylhexedrone, α-PHP, 4-MEAP, MPHP, PV8, or 4-chloro-α-PVP must also comply with the employee screening requirements of 21 CFR 1301.90–1301.93.

3. *Labeling and Packaging.* All labels, labeling, and packaging for commercial containers of *N*-ethylhexedrone, α-PHP, 4-MEAP, MPHP, PV8, and 4-chloro-α-PVP must be in compliance with 21 U.S.C. 825, and be in accordance with 21 CFR part 1302.

4. *Quota.* Only registered manufacturers are permitted to manufacture *N*-ethylhexedrone, α-PHP, 4-MEAP, MPHP, PV8, or 4-chloro-α-PVP in accordance with a quota assigned pursuant to 21 U.S.C. 826 and in accordance with 21 CFR part 1303.

5. *Inventory.* Any person registered with DEA to handle *N*-ethylhexedrone, α-PHP, 4-MEAP, MPHP, PV8, or 4-chloro-α-PVP must have an initial inventory of all stocks of controlled substances (including *N*-ethylhexedrone, α-PHP, 4-MEAP, MPHP, PV8, and 4-chloro-α-PVP) on hand on the date the registrant first engages in the handling of controlled substances pursuant to 21 U.S.C. 827 and in accordance with 21 CFR 1304.03, 1304.04, and 1304.11.

After the initial inventory, every DEA registrant must take an inventory of all controlled substances (including *N*-ethylhexedrone, α-PHP, 4-MEAP, MPHP, PV8, and 4-chloro-α-PVP) on hand every two years, pursuant to 21 U.S.C. 827 and in accordance with 21 CFR 1304.03, 1304.04, and 1304.11.

6. *Records and Reports.* Every DEA registrant is required to maintain records and submit reports with respect to *N*-ethylhexedrone, α-PHP, 4-MEAP, MPHP, PV8, or 4-chloro-α-PVP pursuant to 21 U.S.C. 827, and in accordance with 21 CFR 1301.74(b) and (c) and parts 1304, 1312, and 1317. Manufacturers and distributors must submit reports regarding these substances to the Automation of Reports and Consolidated Order System pursuant to 21 U.S.C. 827 and in accordance with 21 CFR parts 1304 and 1312.

7. *Order Forms.* Every DEA registrant who distributes *N*-ethylhexedrone, α-PHP, 4-MEAP, MPHP, PV8, or 4-chloro-α-PVP is required to comply with the order form requirements, pursuant to 21 U.S.C. 828 and 21 CFR part 1305.

8. *Importation and Exportation.* All importation and exportation of *N*-ethylhexedrone, α-PHP, 4-MEAP, MPHP, PV8, or 4-chloro-α-PVP must be in compliance with 21 U.S.C. 952, 953, 957, and 958, and in accordance with 21 CFR part 1312.

9. *Liability.* Any activity involving *N*-ethylhexedrone, α-PHP, 4-MEAP, MPHP, PV8, or 4-chloro-α-PVP not authorized by, or in violation of the CSA or its implementing regulations, is unlawful, and could subject the person to administrative, civil, and/or criminal sanctions.

Regulatory Analyses

Executive Orders 12866 (Regulatory Planning and Review) and 13563 (Improving Regulation and Regulatory Review)

In accordance with 21 U.S.C. 811(a), this proposed scheduling action is subject to formal rulemaking procedures performed ''on the record after opportunity for a hearing,'' which are conducted pursuant to the provisions of 5 U.S.C. 556 and 557. The CSA sets

[6] *N*-ethylhexedrone, α-PHP, 4-MEAP, MPHP, PV8, and 4-chloro-α-PVP are currently subject to schedule I controls on a temporary basis, pursuant to 21 U.S.C. 811(h). 84 FR 34291, July 18, 2019. An order extending the temporary scheduling of *N*-ethylhexedrone, α-PHP, 4-MEAP, MPHP, PV8, and 4-chloro-α-PVP for one year is published elsewhere in this issue of the **Federal Register**, on the same day as this notice of proposed rulemaking.

forth the criteria for scheduling a drug or other substance. Such actions are exempt from review by the Office of Management and Budget (OMB) pursuant to section 3(d)(1) of Executive Order (E.O.) 12866 and the principles reaffirmed in E.O. 13563.

Executive Order 12988, Civil Justice Reform

This proposed regulation meets the applicable standards set forth in sections 3(a) and 3(b)(2) of E.O. 12988 to eliminate drafting errors and ambiguity, minimize litigation, provide a clear legal standard for affected conduct, and promote simplification and burden reduction.

Executive Order 13132, Federalism

This proposed rulemaking does not have federalism implications warranting the application of E.O. 13132. The proposed rule does not have substantial direct effects on the States, on the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government.

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

This proposed rule does not have tribal implications warranting the application of E.O. 13175. It does not 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.

Regulatory Flexibility Act

The Administrator, in accordance with the Regulatory Flexibility Act, 5 U.S.C. 601–612, has reviewed this proposed rule and by approving it certifies that it will not have a significant economic impact on a substantial number of small entities. On July 18, 2019, DEA published an order to temporarily place *N*-ethylhexedrone, α-PHP, 4-MEAP, MPHP, PV8, and 4-chloro-α-PVP in schedule I of the CSA pursuant to the temporary scheduling provisions of 21 U.S.C. 811(h). DEA estimates that all entities handling or planning to handle these substances have already established and implemented the systems and processes required to handle *N*-ethylhexedrone, α-PHP, 4-MEAP, MPHP, PV8, or 4-chloro-α-PVP. There are currently 34 unique registrations authorized to handle *N*-ethylhexedrone, α-PHP, 4-MEAP, MPHP, PV8, or 4-chloro-α-PVP specifically, as well as a number of registered analytical labs that are authorized to handle schedule I controlled substances generally. From review of entity names, DEA estimates these 34 registrations represent 29 entities. Some of these entities are likely to be large entities. However, since DEA does not have information of registrant size and the majority of DEA registrants are small entities or are employed by small entities, DEA estimates a maximum of 29 entities are small entities. Therefore, DEA conservatively estimates as many as 29 small entities are affected by this proposed rule.

A review of the 34 registrations indicates that all entities that currently handle *N*-ethylhexedrone, α-PHP, 4-MEAP, MPHP, PV8, or 4-chloro-α-PVP also handle other schedule I controlled substances, and thus they have established and implemented (or maintain) the systems and processes required to handle *N*-ethylhexedrone, α-PHP, 4-MEAP, MPHP, PV8, and 4-chloro-α-PVP as a schedule I substance. Therefore, DEA anticipates that this proposed rule will impose minimal or no economic impact on any affected entities, and, thus, will not have a significant economic impact on any of the 29 affected small entities. Therefore, DEA has concluded that this proposed rule will not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

In accordance with the Unfunded Mandates Reform Act (UMRA) of 1995, 2 U.S.C. 1501 *et seq.,* DEA has determined and certifies that this proposed action would not result in 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 1 year * * *.'' Therefore, neither a Small Government Agency Plan nor any other action is required under UMRA of 1995.

Paperwork Reduction Act of 1995

This proposed action does not impose a new collection of information under the Paperwork Reduction Act of 1995. 44 U.S.C. 3501–3521. This proposed action would not impose recordkeeping or reporting requirements on State or local governments, individuals, businesses, or organizations. 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.

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Reporting and recordkeeping requirements.

For the reasons set out above, DEA proposes to amend 21 CFR part 1308 as follows:

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

■ 1. The authority citation for part 1308 continues to read as follows:

Authority: 21 U.S.C. 811, 812, 871(b), 956(b), unless otherwise noted.

■ 2. Amend § 1308.11 by:
■ a. Adding paragraphs (d)(94) through (99); and
■ b. Removing and reserving paragraphs (h)(42) through (h)(47).

The additions to read as follows:

§ 1308.11 Schedule I.

* * * * *

(d) * * *

(94) *N*-Ethylhexedrone (Other name: α-ethylaminohexanophenone) 7246
(95) *alpha*-Pyrrolidinohexanophenone (Other names: α-PHP, α-pyrrolidino-hexanophenone, 1-phenyl-2-(pyrrolidin-1-yl)hexan-1-one) 7544
(96) 4-Methyl-*alpha*-Ethylaminopentiophenone (Other names: 4-MEAP, 2-(ethylamino)-1-(4-methylphenyl)pentan-1-one) 7245
(97) 4′-Methyl-*alpha*-pyrrolidinohexiophenone (Other names: MPHP, 4′-methyl-*alpha*- pyrrolidino hexanophenone; 1-(4-methylphenyl)-2-(pyrrolidin-1-yl)hexan-1-one) 7446
(98) *alpha*-Pyrrolidinoheptaphenone (Other names: PV8, 1-phenyl-2-(pyrrolidin-1-yl)heptan-1-one) 7548
(99) 4′-Chloro-*alpha*-Pyrrolidinovalerophenone (Other names: 4-chloro-α-PVP, 4-chloro-α-pyrrolidinopentiophenone, 1-(4-chlorophenyl)-2-(pyrrolidin-1-yl)pentan-1-one) 7443

* * * * *

Anne Milgram,

Administrator.

[FR Doc. 2021–15114 Filed 7–15–21; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

[NPS–SACN–31398; PPMWMWROW2/PMP00UP05.YP0000]

RIN 1024–AE64

St. Croix National Scenic Riverway, Bicycling

AGENCY: National Park Service, Interior.

ACTION: Proposed rule.

SUMMARY: The National Park Service proposes to amend the special regulations for St. Croix National Scenic Riverway to allow bicycle use on a 0.25-mile connector trail across National Park Service land near Cable, Wisconsin. The new trail would provide direct access to the Riverway and new recreational opportunities within the Riverway and on the Chequamegon Area Mountain Bike Association trail network in Bayfield County, Wisconsin. National Park Service regulations require promulgation of a special regulation to designate new trails for bicycle use off park roads and outside of developed areas.

DATES: Comments on the proposed rule must be received by 11:59 p.m. EDT on September 14, 2021.

ADDRESSES: You may submit comments, identified by Regulation Identifier Number (RIN) 1024–AE64, by either of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: *www.regulations.gov.* Follow the instructions for submitting comments.

(2) *By hard copy:* Mail to: Superintendent, St. Croix National Scenic Riverway, 401 North Hamilton Street, St. Croix Falls, WI 54024.

Document Availability: The Cable Connector Trail Environmental Assessment and Finding of No Significant Impact provide information and context for this proposed rule and are available online at *https://parkplanning.nps.gov/sacn* by clicking the link entitled ''Cable Connector Trail'' and then clicking the link entitled ''Document List.''

Instructions: Comments will not be accepted by fax, email, or in any way other than those specified above. All submissions received must include the words ''National Park Service'' or ''NPS'' and must include the docket number or RIN (1024–AE64) for this rulemaking. Comments received may be posted without change to *www.regulations.gov,* including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to *www.regulations.gov* and search for ''1024–AE64''.

FOR FURTHER INFORMATION CONTACT: Julie Galonska, Superintendent, St. Croix National Scenic Riverway; (715) 483–2270, *julie_galonska@nps.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Namekagon and St. Croix Rivers flow through some of the most scenic and least developed country in the Upper Midwest. The free-flowing character and exceptional water quality of these waterways serve as a unique ecological corridor in northwest Wisconsin and eastern Minnesota that sustains a diversity of aquatic and terrestrial wildlife and habitats.

In 1968, to preserve, protect, and enhance this unique national resource for the benefit and enjoyment of present and future generations, Congress established the St. Croix National Scenic Riverway, a 230-mile long protected area that includes the Namekagon River, as one of the original eight rivers protected under the national Wild and Scenic Rivers Act. In 1972, the Lower St. Croix National Scenic Riverway was added to the National Wild and Scenic Rivers System. Together, these areas form the Riverway.

Today, the rivers continue to flow unimpeded for considerable distances as they have for millennia, through the river corridor, growing and changing in character from their headwaters to the St. Croix's confluence with the Mississippi. The Riverway offers exceptional recreational opportunities for visitors to paddle, boat, camp, hike, fish, explore, and find solitude in a natural setting close to the major metropolitan area of Minneapolis-Saint Paul. The National Park Service (NPS) and state partners work with local communities to maintain the aquatic, cultural, recreational, riparian, scenic–aesthetic, and geologic values of the rivers for the benefit and enjoyment of more than 600,000 annual visitors.

Cable Connector Trail Environmental Assessment

The NPS proposes to construct a 0.25-mile connector trail through the Riverway near Cable, Wisconsin. The trail would be designed for hiking, trail running, and bicycle and electric bicycle (e-bike) use, and silent sports in the winter such as fat-tire bicycling, snowshoeing, and cross-country skiing. It would be the first trail at the Riverway open to bicycle use. Construction of the trail would respond to a specific opportunity identified by the NPS and local partners to create a link across public land to provide direct access to the Riverway and new recreational opportunities within the Riverway and on the Chequamegon Area Mountain Bike Association (CAMBA) trail network in Bayfield County, Wisconsin. The trail would be built from the end of a segment of CAMBA's Wild River Trail on a former railroad grade near the Town of Cable, connecting to Parker Road. The trail would provide a critical link to adjoining trails and would serve an important role providing connectivity for several local trail running and biking events that start or finish in the Cable area. The bare soil trail would be built using sustainable trail construction techniques to protect natural and cultural resources. The trail would utilize landforms and natural features exhibiting the natural beauty of the area and would feature a slight crown, shallow grades, open sight lines, and gentle turns to support user safety, provide adequate drainage to minimize braiding, seasonal muddiness, and erosion, and reduce the overall maintenance costs associated with more complex trail features. Signage would clearly indicate allowed uses on the trail. Equestrian and motorized use would not be allowed.

On September 22, 2020, the NPS published the Cable Connector Trail Environmental Assessment (EA). The EA describes one action alternative (the preferred alternative) and the no-action alternative. Under the preferred alternative, the NPS would construct the 0.25 mile Cable Connector Trail to accommodate bicycle and e-bike use. The EA evaluates (1) the suitability of the Cable Connector Trail for bicycle and e-bike use; and (2) life cycle maintenance costs, safety considerations, methods to prevent or minimize user conflict, and methods to protect natural and cultural resources and mitigate impacts associated with bicycle and e-bike use on the trail. The EA contains a full description of the purpose and need for taking action, the alternatives considered, a map of the affected area, and the environmental impacts associated with the project. After a public review period, on February 1, 2021, the Regional Director

for DOI Unified Regions 3, 4 and 5 (Great Lakes) signed a Finding of No Significant Impact (FONSI) that identified the preferred alternative in the EA as the selected alternative. The EA and FONSI may be viewed on the Riverway's planning website at *https://parkplanning.nps.gov/sacn* by clicking the link entitled ''Cable Connector Trail'' and then clicking the link entitled ''Document List.''

Proposed Rule

This proposed rule would implement the selected alternative in the FONSI and authorize the Superintendent to designate the new Cable Connector Trail for traditional bicycle use. This action would comply with NPS regulations 36 CFR 4.30, which require a special regulation to designate new bicycle trails that require construction activities off park roads and outside of developed areas. The proposed rule would add a new paragraph (g) to 36 CFR 7.9, which contains the special regulations for the Riverway. After the trail is constructed, the rule would require the Superintendent to notify the public prior to designating the trail for bicycle use through one or more of the methods listed in 36 CFR 1.7, and identify the designation on maps available at Riverway visitor centers and posted on the Riverway's website (*www.nps.gov/sacn*). The proposed rule would also authorize the superintendent to establish closures, conditions, or restrictions for bicycle use on the trail after considering public health and safety, resource protection, and other management activities and objectives.

Bicycle use would not be authorized by the Superintendent until the NPS completes the planning and environmental review process required by NPS regulations at 36 CFR 4.30, including the preparation of a written determination that bicycle use on the new trail is consistent with the protection of the park area's natural, scenic and aesthetic values, safety considerations and management objectives, and will not disturb wildlife or park resources. Consistent with NPS regulations at 36 CFR 4.30(i)(1), after the Cable Connector Trail is opened to traditional bicycles, the Superintendent may open the trail to e-bikes, or specific classes of e-bikes, and will notify the public of any such action pursuant to 36 CFR 1.7. This rule would not affect the use of any existing trails in the Riverway, all of which would remain closed to bicycles.

The proposed rule would also revise the section heading from ''St. Croix National Scenic Rivers'' to ''St. Croix National Scenic Riverway.'' This change is consistent with the commonly used and official name of the Riverway.

Compliance With Other Laws, Executive Orders and Department Policy

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs in the Office of Management and Budget will review all significant rules. The Office of Information and Regulatory Affairs has determined that this rulemaking is not significant.

Executive Order 13563 reaffirms the principles of Executive Order 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. Executive Order 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. The NPS has developed this rule in a manner consistent with these requirements.

Regulatory Flexibility Act

This rulemaking would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This certification is based on information contained in the economic analyses found in the report entitled ''Cost-Benefit and Regulatory Flexibility Threshold Analyses: Proposed Rule to Designate a New Trail Connection for Bicycle Use at St. Croix National Scenic Riverway.'' The report may be viewed on the Riverway's planning website at *https://parkplanning.nps.gov/sacn* by clicking the link entitled ''Cable Connector Trail'' and then clicking the link entitled ''Document List.''

Congressional Review Act (CRA)

This rulemaking is not a major rule under 5 U.S.C. 804(2). This rule:

(a) Does not have an annual effect on the economy of $100 million or more.

(b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

(c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act

This rulemaking does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local or tribal governments or the private sector. It addresses public use of national park lands and imposes no requirements on other agencies or governments. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

Takings (Executive Order 12630)

This rulemaking does not effect a taking of private property or otherwise have takings implications under Executive Order 12630. A takings implication assessment is not required.

Federalism (Executive Order 13132)

Under the criteria in section 1 of Executive Order 13132, the rulemaking does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. This proposed rule only affects use of federally-administered lands and waters. It has no direct effects on other areas. A federalism summary impact statement is not required.

Civil Justice Reform (Executive Order 12988)

This rulemaking complies with the requirements of Executive Order 12988. This rule:

(a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and

(b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

Consultation With Indian tribes (Executive Order 13175 and Department Policy)

The Department of the Interior strives to strengthen its government-to-government relationship with Indian Tribes through a commitment to consultation with Indian tribes and recognition of their right to self-governance and tribal sovereignty. The NPS has evaluated this rulemaking under the criteria in Executive Order 13175 and under the Department's tribal

consultation policy and have determined that tribal consultation is not required because the rule will have no substantial direct effect on federally recognized Indian tribes. Nevertheless, in support of the Department of the Interior and NPS commitment for government-to-government consultation, during the EA process, the NPS shared information about the proposed action with 18 federally recognized American Indian Tribes and invited them to consult on the project. None of the 18 Tribes expressed interest in consultation.

Paperwork Reduction Act

This rulemaking does not contain information collection requirements, and a submission to the Office of Management and Budget under the Paperwork Reduction Act is not required. The NPS may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

National Environmental Policy Act

The NPS has prepared the EA to determine whether this rule will have a significant impact on the quality of the human environment under the National Environmental Policy Act of 1969. This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the NEPA is not required because of the FONSI. A copy of the EA and FONSI can be found online at *https://parkplanning.nps.gov/sacn* by clicking the link entitled ''Cable Connector Trail'' and then clicking the link entitled ''Document List.''

Effects on the Energy Supply (Executive Order 13211)

This rulemaking is not a significant energy action under the definition in Executive Order 13211; the rule is not likely to have a significant adverse effect on the supply, distribution, or use of energy, and the rule has not otherwise been designated by the Administrator of OIRA as a significant energy action. A Statement of Energy Effects in not required.

Clarity of This Rule

The NPS is required by Executive Orders 12866 (section 1(b)(12)) and 12988 (section 3(b)(1)(B)), and 13563 (section 1(a)), and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule the NPS publishes must:

(a) Be logically organized;

(b) Use the active voice to address readers directly;

(c) Use common, everyday words and clear language rather than jargon;

(d) Be divided into short sections and sentences; and

(e) Use lists and tables wherever possible.

If you feel that the NPS has not met these requirements, send us comments by one of the methods listed in the **ADDRESSES** section. To better help the NPS revise the rule, your comments should be as specific as possible. For example, you should identify the numbers of the sections or paragraphs that you find unclear, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

Public Participation

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments regarding this proposed rule by one of the methods listed in the **ADDRESSES** section of this document.

Public Availability of Comments

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.

List of Subjects in 36 CFR Part 7

National parks, Reporting and recordkeeping requirements.

In consideration of the foregoing, the National Park Service proposes to amend 36 CFR part 7 as set forth below:

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

■ 1. The authority citation for part 7 continues to read as follows:

Authority: 54 U.S.C. 100101, 100751, 320102; Sec. 7.96 also issued under D.C. Code 10–137 and D.C. Code 50–2201.07.

■ 2. Amend § 7.9 by revising the section heading and adding paragraph (g) to read as follows:

§ 7.9 St. Croix National Scenic Riverway.

* * * * *

(g) *Bicycle Use.* (1) The Superintendent may designate all or a portion of the following trail as open to bicycle use:

(i) Cable Connector Trail (full length of the trail approximately 0.25 miles).

(ii) [Reserved]

(2) A map showing trails open to bicycle use will be available at Riverway visitor centers and posted on the Riverway website. The Superintendent will provide notice of all trails designated for bicycle use in accordance with § 1.7 of this chapter. The Superintendent may limit, restrict, or impose conditions on bicycle use, or close any trail to bicycle use, or terminate such conditions, closures, limits, or restrictions in accordance with § 4.30 of this chapter.

Shannon A. Estenoz,

Principal Deputy Assistant Secretary for Fish and Wildlife and Parks Exercising the Delegated Authority of the Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2021–14933 Filed 7–15–21; 8:45 am]

BILLING CODE 4312–52–P

Notices

Federal Register
Vol. 86, No. 134
Friday, July 16, 2021

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

The Department of Agriculture has submitted the following information collection requirement(s) to Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding: 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; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; 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 August 16, 2021 will be considered. Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

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.

Rural Utilities Service

Title: Special Authority to Enable Funding of Broadband and Smart Utility Facilities Across Select Rural Development Programs.

OMB Control Number: 0572–0156.

Summary of Collection: The Rural Utilities Service, Rural Business-Cooperative Service, and Rural Housing Service, agencies that comprise the Rural Development Mission Area within the United States Department of Agriculture, are issuing this final rule to establish the authority authorized by Section 6210 of the Agriculture Improvement Act of 2018. This rule describes the procedures by which these agencies will consider projects eligible for special broadband authority and Smart Utility facilities.

On December 20, 2018, Congress passed The Agricultural Improvement Act of 2018 (2018 Farm Bill) (Pub. L. 115–334). In addition to sweeping changes in broadband program authorities, Congress provided for special use of funding from other RD programs for broadband deployment in Section 6210, ''Smart Utility Authority for Broadband.'' The provision granted the Secretary of Agriculture the discretion to allow recipients of grants, loans, or loan guarantees under RD programs to use not more than 10 percent of such funding to finance broadband infrastructure in areas not served by the minimum acceptable level of broadband service, as defined in this Part, and which will not result in competitive harm to a current RD loan, grant, or loan guarantee. While Section 6210 only imposes the competitive harm restriction with respect to RUS loan, grant, and loan guarantee recipients, RD has determined to apply the restriction RD-wide, consistent with the statutory guidance on conflicts and duplications of awards provided in 7 U.S.C. 2204b(d)(2).

Rural community leaders, businesses and utilities must consider broadband availability and uses as they plan for, and implement, new and improved facilities and services to support community and economic development. While integration of communications technology into a planned investment can be used for internal purposes, it can also serve as a catalyst to rural broadband deployment efforts. For example, investment in health care, public safety and businesses can be enhanced or leveraged to expand the availability and utilization of advanced broadband in rural areas. Smart highways can facilitate vehicle to infrastructure communications to enhance driver safety; smart water systems can remotely detect contaminants before they pose a health risk; smart pipelines can report leaks and structural weaknesses before they become dangerous; and smart grid systems deliver enhanced security and energy efficiency, as well as speed recovery after an electric outage. Through this regulation, RD enables limited integration of broadband deployment with other rural investments funded through its broad suite of programs. It does so without adding the burden of seeking funding through separate program areas.

Need and Use of the Information: The collection of information is necessary for RD to determine an applicant's ability to borrow under the terms of the 2018 Farm Bill and included programs and that the applicant complies with statutory, regulatory, and administrative eligibility requirements for loan assistance. As part of that submission, applicants are required to provide a service area map, where applicable, of their entire service territory.

Description of Respondents: Businesses or other for-profits.

Number of Respondents: 159.

Frequency of Responses: Annually.

Total Burden Hours: 239.

Dated: July 13, 2021.

Levi S. Harrell,

Departmental Information Collection Clearance Officer.

[FR Doc. 2021–15118 Filed 7–15–21; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF AGRICULTURE

Office of the Secretary

[Docket No. AMS–TM–21–0058]

Investments and Opportunities for Meat and Poultry Processing Infrastructure

AGENCY: Office of the Secretary, USDA.

ACTION: Request for public comment.

SUMMARY: On July 9, 2021, President Biden issued an Executive Order on

Promoting Competition in the American Economy, laying out a whole-of-government approach to promoting competition, which directs the U.S. Department of Agriculture (USDA) to develop strategies to improve competition in agricultural markets. This complements USDA's efforts to address meat and poultry processing bottlenecks as part of the Administration's Supply Chain Disruptions Task Force (Task Force) and to Build Back Better following the COVID–19 pandemic. To develop strategies that support the Executive Order and enhance competitiveness in the meat and poultry processing sector, USDA is seeking input from the public on how to invest an estimated $500 million of American Rescue Plan funds to improve infrastructure, increase capacity, and hasten diversification across the processing industry. USDA is interested in your comments in response to the topics, categories, and questions shown in the **SUPPLEMENTARY INFORMATION** section of this notice.

DATES: We will consider comments that we receive by August 30, 2021. Comments received after that date will be considered to the extent practicable.

ADDRESSES: We invite you to submit comments on this notice. You may submit comments by either of the following methods:

- *Federal Rulemaking Portal:* Go to *http://www.regulations.gov* and search for Docket ID AMS–TM–21–0058. Follow the instructions for submitting comments.
- *Mail:* Sarah J. Helming, Whitten Building—Suite 312–E, 1400 Independence Avenue SW, Washington, DC 20250. In your comment, specify Docket ID AMS–TM–21–0058.

Comments will be available for viewing online at *www.regulations.gov.* Comments received will be posted without change, including any personal information provided. In addition, comments will be available for public inspection at the above address during business hours from 8 a.m. to 5 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Sarah J. Helming, Supply Chain Resiliency Coordinator (detailed), Marketing and Regulatory Programs; (202) 799–7014; or email: *sarah.j.helming@usda.gov.*

SUPPLEMENTARY INFORMATION: Decades of increasing concentration in the meat and poultry processing sector have harmed farmers and ranchers and created a bottleneck and vulnerability in America's food supply chain. During the COVID–19 pandemic, this bottleneck grew tighter when massive disruptions occurred across livestock operations, processing facilities, and retail, with some consumers experiencing constrained supplies of meat and poultry products due to processing shortages and panic buying. In parallel, those raising, processing, and preparing our food earn less each year in a system that continues to reward size without regard to resiliency or vulnerability of the system to shocks. The Biden-Harris Administration aims to Build Back Better and strengthen the food system by addressing the growing concentration and lack of competition that have plagued the meat and poultry processing sector for decades. By making strategic investments in the addition and expansion of small- and medium-sized processing facilities, the technical assistance necessary to bolster local and regional capacity and markets, and high-quality workforce development and creative partnerships that build local support for the sector, the Administration will support the market's transition towards a more diversified, transparent, and robust meat and poultry processing system.

This is consistent with the Executive Order on Promoting Competition in the American Economy that President Biden signed on July 9, 2021, laying out a whole-of-government competition policy. Designed to address the growing concentration that has a direct financial impact on American families, farmers and ranchers, and small businesses, the Executive Order directs USDA, among other agencies, to develop a range of strategies to enhance the competitive landscape in American agriculture. Identifying opportunities to invest directly in competition is one such strategy which may be particularly beneficial in addressing the challenges that farmers and ranchers in livestock and poultry face from high levels of market concentration in meat and poultry processing. Furthermore, increasing capacity will help relieve bottlenecks stemming from concentration in meat and poultry processing and complements work to address vulnerabilities and mismatches in America's supply chains, commenced under a new Supply Chain Disruptions Task Force (Task Force), led by the Secretaries of Commerce, Transportation, and Agriculture and in support of ongoing supply chain work across the government in response to Executive Order 14017 ''America's Supply Chains.'' The Task Force provides a whole-of-government response to address near-term supply chain challenges to our nation's economic recovery, with a focus on areas where there is a mismatch between supply and demand. In furtherance of both the Executive Order on competition and the Task Force effort, USDA is interested in addressing competition constraints and supply chain bottlenecks through strategic investments in expanding meat and poultry processing capacity. To support increased capacity and competition across agricultural markets, USDA anticipates committing $500 million in American Rescue Plan funds to address challenges in meat and poultry processing infrastructure and capabilities through a combination of loans, grants, and technical assistance projects, as part of a broader post-pandemic Build Back Better effort.

Through this notice, USDA is soliciting public comments on how to best address challenges and increase competition in meat and poultry processing through $500 million in infrastructure and other investments. USDA is looking at existing programs, combinations of programs, and potentially new programs that can leverage the federal funds in combination with other funding sources (*e.g.,* state and local investment, private, or philanthropic investment) to expand and diversify meat and poultry processing capacity and make the supply chain more resilient. In addition, USDA is considering how to incorporate other priorities—including climate, racial equity, creating good-quality jobs and support for underrepresented communities—into these programs. While USDA has identified a general direction to target these through a combination of partnerships, loans, grants, and technical assistance projects, we have a number of specific questions related to implementation (*e.g.,* which mix of loans and grants would be most impactful to support competitiveness, increased capacity, and build resilience; what type of customized investments are needed in different regions and for different size facilities; which technical assistance partners would be most effective and efficient to develop, deliver, and fill training gaps; what types of partnerships will best leverage the federal investment and encourage local support and long term viability). To guide implementation of these funds in an efficient and impactful way, USDA is interested in your comments in response to the topics, categories, and questions identified below.

USDA requests input from a range of stakeholders including, but not limited to, producers, meat and poultry processors, food supply chain workers, private sector, not-for-profits, trade

associations, commodity boards, worker organizations, workforce training programs, lenders, community development organizations, State and local governments, community-based organizations, retailers, tribal organizations and governments, and others involved in this part of the supply chain (*e.g.,* supplying and/or transporting animals to processors and products from processors, expanding or investing in processing facilities, providing technical support or training for such facilities). Submissions will be most helpful if they include reference citations or website links to research, economic analyses, feasibility studies, evaluations or other supporting documentation that support the comments provided. Consortia responses are also encouraged. USDA also notes that the information received through this notice will supplement our ongoing work to identify credit sources available for existing and new potential processors and to conduct a study to examine the role of credit and financing in expanding processing capacity as directed by the Consolidated Appropriations Act, 2021.

1. General Considerations

- What competition challenges and risks might new entrants face from high levels of market concentration or other relevant market conditions, and how can USDA and other Federal government agencies assist new entrants in mitigating those risks? What resources exist at the State, tribal, and local level, as well as at academic research centers, to assist new entrants in addressing competition challenges, and how can the Federal government support the effectiveness of those resources?
- What type of investor, developer, or new entrant would be best positioned to build a new facility, or expand an existing facility, and who could fund it? What level of experience is necessary for success?
- What business and operating structures (*e.g.,* cooperatives, farmer-owned facilities, sole proprietorship, limited liability company, B corporation, etc.) can sustain these operations?
- How can workforce recruitment, training, and retention needs be addressed to maintain or increase processing capacity?
- What key job working conditions, salary, benefits, and other facility and community attributes are needed to create and maintain an adequate workforce?
- What information is available to help guide USDA's understanding of workforce needs of very small, small, and larger processors (*e.g.,* access to labor, training, safety considerations), particularly as related to regional considerations and solutions?
- What factors should be considered when siting and designing a facility or renovation related to environmental justice to encourage energy efficiency and minimize the climate and environmental impacts of the facility?
- What regions show demonstrated processing needs, at what levels, and for which species?
- What constitutes sufficient actual demand for small and very small processing facilities to keep a business operational with appropriate cash flow? For context, USDA defines a ''small'' establishment as those with 10 or more employees but fewer than 500 employees; a ''very small'' establishment is one with fewer than 10 employees or less than $2.5 million in annual sales. Any establishment with 500 or more employees is considered ''large''; there is no mid-scale size category.
- How can USDA support access to processing services for smaller-scale producers? Are there opportunities for producers to engage in cooperative or collaborative arrangements with each other or other facilities to both ensure access and provide a sufficient supply for a plant to operate? If so, what government assistance would be needed to facilitate that type of arrangement?
- What metrics illuminate the extent of the competitive environment for the products or services that producers and growers offer, including at the local level? What factors up and down the supply chain affect that competitive environment?
- What seasonal throughput issues (*e.g.,* under- and over-utilization during parts of the year) or regional challenges need to be considered for plant expansion or development?
- How do processing needs and challenges vary by species and by value-added product types (*e.g.,* organic, local, grass-fed, kosher, halal)? Do these needs require special types of funding (*e.g.,* to encourage continued innovation)?
- How can USDA and industry stakeholders partner with institutions of higher education, including community colleges and other academic institutions invested in the local community, such as Tribal colleges or land grant institutions, or other partners to start up or expand meat and poultry operations including workforce development and training programs related to entrepreneurship, meat cutting, or other necessary skills? Could these programs serve as technical education opportunities for non-university students? What type and level of funding would be required to support such programs?

2. Fair Treatment of Farmers and Workers and Ownership Considerations

- What conditions should be placed on federally funded projects to ensure fair and equitable outcomes (*e.g.,* requirement that jobs that can support families; transparency in pricing; fair dealing)?
- What conditions should be included related to the sources of materials being used to construct or expand the facility (*e.g.,* buy American)?
- What steps would require or encourage the creation of high-quality jobs for workers employed during construction and within the operational facility (*e.g.,* prevailing wages and fair opportunities to collectively bargaining)?
- What health and safety standards would encourage a safe and healthy workplace?
- Should USDA have the ability to block the sale of processing facilities built or invested in through federal funds to large or foreign-owned corporations? What other options should USDA consider in order to prevent new, expanded, and successful facilities from being acquired by the large corporations whose consolidated operations can suffer from bottlenecks and create significant supply chain vulnerabilities?
- Should the processer be required to purchase a minimum volume through auctions or other public transactions?
- If contracts are utilized, should practices like tournament systems that have been found to be prone to anti-competitive abuse be prohibited? Should contracts have at least a portion of the payments to producers be based on wholesale meat prices?
- If contract grower relationships are used that require a purpose-built production facility, should contract be required to cover at least the length of the loan term?

3. Loans and Other Financing Considerations

While USDA is requesting feedback in the following three sections on loans, grants, and technical assistance, our intention is to combine and integrate these tools together along with strategic partnerships to achieve the right mix of investments and support for processors. To that end, we have specific questions on partnerships and combined funding opportunities in the last numbered section.

• What financing tools facilitate access to capital for small meat and poultry processing companies? In your response, please consider the stage of corporate development (*e.g.,* startup, onsite expansion, restarting an idled facility, new location), the potential use of funds (*e.g.,* working capital, construction, credit lines, equipment), and the type of financing (*e.g.,* grants, installment loans, balloon payment loans, equity like investments). Please also consider the prospective borrowers' type of business model (*e.g.,* cooperative, farmer joint-ownership, employee-ownership, mobile meat- and poultry processing operations).

• What financing tools facilitate provision of capital by lenders who finance meat and poultry processors? In your response, please consider the type of lender (*e.g.,* bank, credit union, loan fund) and the type of tool (*e.g.,* loan guarantee, direct loan, debt to establish a revolving loan fund, grant to establish a revolving loan fund).

• What are the barriers or challenges to financing tools (*e.g.,* gap between local lender expertise to support meat and poultry processing and the need for processing capacity), and are there changes that can be made to existing programs to mitigate these challenges?

• What type of upstream analysis of customers/product demand is needed to justify the level of lending or financial support?

• What barriers, if any, exist that reduce the ability of meat and poultry processor lenders to extend their geography?

• What barriers, if any, exist that reduce the ability of meat and poultry processor lenders to provide capital for multiple types of meat and poultry processors (*e.g.,* different meats and poultry, different size processors, cooperatives, tribally owned or tribally affiliated operation)?

• What barriers, if any, exist that reduce access to capital for very small and small meat and poultry processors? In your response, consider collateral, capital, capacity, and other factors.

• What are the most pressing needs of the meat and poultry processing sector with regard to financing, and what action should USDA take in the immediate term to improve access to capital for small and very small meat and poultry processors?

• What types of technical assistance or capacity building support would be useful to lenders interested in starting or expanding their meat and poultry processing lending?

• What types of technical assistance or capacity-building support would be useful to lenders interested in starting or expanding lending to tribally owned or affiliated meat and poultry processing operations?

• What types of technical assistance or capacity building support would be useful to lenders interested in starting or expanding lending to meat and poultry processing cooperatives?

• How could federal funds be best leveraged with state and local resources (matching funds, in-kind support, government assistance)?

4. Grant Considerations

• Would a small plant expansion program structured similarly to USDA's Meat and Poultry Inspection Readiness Grant (MPIRG), but with a focus on expanding slaughter and processing capacity for small federally inspected plants, be beneficial? If so, at what award ($) level per grant and for what types of costs?

• What types of planning grants are necessary that are not already covered by an existing USDA grant or other financial assistance program? What other federal programs could finance or have funded processing efforts and with which USDA could partner? Are sufficient grants available now for business planning for new ventures, or is that a gap that needs to be filled?

• Are grant funds (or other funds) needed for marketing or outreach activities, including recruiting new participants in the industry?

• Would pilot grants that provide awards to small plants for training and other support (*e.g.,* cover wage gap during apprenticeships) to develop their local workforce be effective to address some of the labor challenges associated with operating a current, expanded, or new facility?

5. Technical Assistance Considerations

• What are the top priorities for technical assistance that would facilitate processing expansion or increased capacity (*e.g.,* butchery for key markets, HACCP, humane handling best practices for plant operators, labeling approval and processes, brand and market development)?

• Would regional or local cooperative agreements with strategic partners be the best way to provide this type of assistance, or are alternative ways preferable and more effective?

• In what ways could technical assistance support best be deployed to enhance competition and address challenges in the marketplace, how is it best delivered, and by whom?

• What workforce-related technical assistance is most needed, how is it best delivered, and by whom (*e.g.,* best industry practices, training on equipment, new tools for safety)?

6. Partnerships and Combined Funding Considerations

• Who can USDA partner with to best leverage the federal funds (*e.g.,* State and local governments, private investors, philanthropic organizations)?

• Should loans and grants be combined to support these facilities? If so, what criteria should be used to determine what portion of the funds are offered as loans versus grants?

• What conditions should be placed on grants or loans? If those conditions are not met, should the grants require repayment? If the conditions are met, should the loan be forgivable?

In coordination with this public comment process, USDA anticipates hosting a series of stakeholder meetings to learn more about existing plants that could serve as a model for other regions; identify plants that are looking to expand; identify strategies to overcome barriers to building new, maintaining, or expanding existing processing facilities; scope out financial needs to expand processing capacity; scope out the workforce challenges, including safety considerations, and needs for research, innovation, and investment to address workforce and workplace issues; and understand the non-financial barriers that USDA can break down to expand this sector.

Mae Wu,

Deputy Under Secretary for Marketing and Regulatory Programs, U.S. Department of Agriculture.

[FR Doc. 2021–15145 Filed 7–15–21; 8:45 am]

BILLING CODE 3410–90–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: 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; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on 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 August 16, 2021 will be considered. Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

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.

Rural Housing Service

Title: 7 CFR 3550—Direct Single Family Housing Loan and Grant Program, HB–1–3550, HB–2–3550.

OMB Control Number: 0575–0172.

Summary of Collection: USDA Rural Development (RD) is committed to helping improve the economy and quality of life in rural America. RD's Rural Housing Service (RHS or Agency) offers a variety of programs to build or improve housing and essential community facilities in rural areas. The Housing Act of 1949 provides the authority for the RHS' direct single family housing loan and grant programs. The programs provide eligible applicants with financial assistance to own adequate but modest homes in rural areas. 7 CFR part 3550 sets forth the programs' policies and the programs' procedures can be found in its accompanying handbooks (Handbook–1–3550 and Handbook–2–3550). To originate and service direct loans and grants that comply with the programs' statute, policies, and procedures, RHS must collect information from low- and very low-income applicants, third parties associated with or working on behalf of the applicants, borrowers, and third parties associated with or working on behalf of the borrowers. RHS will collect information using several forms.

Need and Use of the Information: RHS will collect information to verify program eligibility requirements; continued eligibility requirements for borrower assistance; servicing of loans; eligibility for special servicing assistance such as: Payment subsidies, moratorium (stop) on payments, delinquency workout agreements; liquidation of loans; and, debt settlement. The information is used to ensure that the direct Single Family Housing Programs are administered in a manner consistent with legislative and administrative requirements. Without the information RHS would be unable to determine if a borrower would qualify for services or if assistance has been granted to which the customer would not be eligible under current regulations and statutes.

Description of Respondents: Individuals or households; Business or other for-profit; Not-for-profit institutions.

Number of Respondents: 106,300.

Frequency of Responses: Reporting: On occasion; Annually.

Total Burden Hours: 284,013.

Title: Rural Community Development Initiative (RCDI).

OMB Control Number: 0575–0180.

Summary of Collection: Congress first authorized the Rural Community Development Initiative (RCDI) in 1999 with an appropriation of $6 million under the Rural Community Advancement Program (Pub. L. 106–78, which was amended by the Consolidated Appropriations Act, 2016 (Pub. L. 114–113)). The Community Facilities Division under the Rural Housing Service (RHS) administers this grant program. The intent of the RCDI grant program is to develop the capacity and ability of rural area recipients to undertake projects through a program of financial and technical assistance provided by qualified intermediary organizations. Intermediaries may be private or public (including tribal) organizations. Intermediaries are required to provide matching funds in an amount equal to the RCDI grant. Eligible recipients are nonprofit organizations, low-income rural communities, or federally recognized tribes.

Need and Use of the Information: The information will be collected from applicants (intermediary organizations applying for the grant), grantees (intermediary organizations that are awarded the grant), recipients (entities that receive assistance from the intermediary), and beneficiaries (entities or individuals that benefit from assistance provided by the recipient) by RHS staff in the National Office and Rural Development field offices. This information is used to determine applicant and recipient eligibility, project feasibility, and to ensure that grantees operate on a sound basis and use grant funds for authorized purposes. The Notice of Solicitation of Applications (NOSA), published in the **Federal Register**, provides instructions for completing an application.

Description of Respondents: Not-for profit institutions; State, Local or Tribal Government.

Number of Respondents: 90.

Frequency of Responses: Reporting: Quarterly; Annually; Third party disclosure.

Total Burden Hours: 4,194.

Levi S. Harrell,

Departmental Information Collection Clearance Officer.

[FR Doc. 2021–15117 Filed 7–15–21; 8:45 am]

BILLING CODE 3410–XV–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2021–0021]

Notice of Availability of an Environmental Assessment for Release of Ganaspis brasiliensis for Biological Control of Spotted-Wing Drosophila in the Continental United States

AGENCY: Animal and Plant Health Inspection Service, Agriculture (USDA).

ACTION: Notice of availability.

SUMMARY: We are advising the public that the Animal and Plant Health Inspection Service has prepared an environmental assessment relative to permitting the release of the insect *Ganaspis brasiliensis* for the biological control of spotted-wing Drosophila (*Drosophila suzukii*) in the continental United States. Based on the environmental assessment and other relevant data, we have reached a preliminary determination that the release of this control agent within the continental United States will not have a significant impact on the quality of the human environment. We are making the environmental assessment available to the public for review and comment.

DATES: We will consider all comments that we receive on or before August 16, 2021.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *www.regulations.gov.* Enter APHIS–2021–0021 in the Search field. Select the Documents tab, then select the Comment button in the list of documents.
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No.

APHIS–2021–0021, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *regulations.gov* or in our reading room, which is located in room 1620 of the USDA South Building, 14th Street and Independence Avenue SW, Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202)–799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: Dr. Colin D. Stewart, Assistant Director, Pests, Pathogens, and Biocontrol Permits, Permitting and Compliance Coordination, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737–1238; (301) 851–2327; email: *Colin.Stewart@usda.gov.*

SUPPLEMENTARY INFORMATION: The Animal and Plant Health Inspection Service (APHIS) is proposing to issue permits for the release of the insect *Ganaspis brasiliensis* in the continental United States for the biological control of spotted-wing Drosophila (*Drosophila suzukii*). The action is proposed to reduce the severity of damage to small fruit crops from infestations of spotted-wing Drosophila (SWD) in the continental United States.

SWD is native to East Asia. It was first detected in California, Italy, and Spain in 2008. It has since established in most fruit-growing regions in North America. SWD lays eggs inside ripening fruits. Feeding by SWD larvae results in the degradation of fruits, and the puncturing of the fruit skin may also provide a gateway for secondary bacterial and fungal infections.

Permitting the release of the G–1 lineage of *Ganaspis brasiliensis* is necessary to reduce SWD populations in non-crop habitats. This would reduce the number of SWD that migrate into susceptible crops and would thereby improve the effectiveness of other SWD control tools. Introducing and establishing this larval parasitoid will uniquely contribute to suppression of SWD because it attacks fly maggots inside the fruit (while most pesticides target only adult flies, and only two pupal parasitoids readily attack SWD). Classical biological control is a potentially useful management strategy for an invasive pest species whenever effective resident natural enemies are lacking in the new distribution range.

APHIS' review and analysis of the potential environmental impacts associated with the proposed release are documented in detail in an environmental assessment (EA) titled ''Field Release of *Ganaspis brasiliensis* (Hymenoptera: Figitidae) for Biological Control of Spotted-wing Drosophila, *Drosophila suzukii* (Diptera: Drosophilidae), in the Continental United States'' (January 2021). Based on our findings in the EA, we are proposing to issue permits for the release of the insect *Ganaspis brasiliensis* (G–1 lineage) as a biological control agent to reduce SWD infestations. We are making the EA available to the public for review and comment. We will consider all comments that we receive on or before the date listed under the heading **DATES** at the beginning of this notice.

The EA may be viewed on the *regulations.gov* website or in our reading room (see **ADDRESSES** above for a link to *regulations.gov* and information on the location and hours of the reading room). You may also request paper copies of the EA by calling or writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. Please refer to the title of the EA when requesting copies.

The EA has been prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Done in Washington, DC, this 12th day of July, 2021.

Mark Davidson,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2021–15167 Filed 7–15–21; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

National School Lunch, Special Milk, and School Breakfast Programs, National Average Payments/Maximum Reimbursement Rates

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: This Notice announces the annual adjustments to the national average payments, the amount of money the Federal Government provides States for lunches, afterschool snacks, and breakfasts served to children participating in the National School Lunch and School Breakfast Programs; to the maximum reimbursement rates, the maximum per lunch rate from Federal funds that a State can provide a school food authority for lunches served to children participating in the National School Lunch Program; and to the rate of reimbursement for a half-pint of milk served to non-needy children in a school or institution that participates in the Special Milk Program for Children. The annual payments and rates adjustments for the National School Lunch and School Breakfast Programs reflect changes in the Food Away From Home series of the Consumer Price Index for All Urban Consumers. The annual rate adjustment for the Special Milk Program reflects changes in the Producer Price Index for Fluid Milk Products. Further adjustments are made to these rates to reflect higher costs of providing meals in Alaska, Guam, Hawaii, Puerto Rico, and the Virgin Islands. The payments and rates are prescribed on an annual basis each July. Overall, reimbursement rates this year for the National School Lunch, Breakfast Programs and the Special Milk Program either remained the same or increased compared to last year.

Special Note: For the school year beginning July 1, 2021 and ending June 30, 2022, school food authorities operating the National School Lunch Program Seamless Summer Option under Food and Nutrition Service-issued nationwide waivers #85 (*Nationwide Waiver to Allow the Seamless Summer Option through School Year 2021–2022*) and #86 (*Nationwide Waiver to Allow Summer Food Service Program Reimbursement Rates in School Year 2021–2022*) may receive the reimbursement rates prescribed for the Summer Food Service Program (85 FR 86901) in lieu of the reimbursement rates established in this notice. The Summer Food Service Program reimbursement rates made available to these school food authorities will similarly be updated effective January 1, 2022 through a future notice published in the **Federal Register**.

DATES: These rates are effective from July 1, 2021 through June 30, 2022.

FOR FURTHER INFORMATION CONTACT: J. Kevin Maskornick, Branch Chief, Program Monitoring and Operational Support Division, Child Nutrition Programs, Food and Nutrition Service, United States Department of Agriculture, 1320 Braddock Place, Suite

401, Alexandria, VA 22314, 703–305–2537.

SUPPLEMENTARY INFORMATION:

Background

Special Milk Program for Children—Pursuant to section 3 of the Child Nutrition Act of 1966, as amended (42 U.S.C. 1772), the Department announces the rate of reimbursement for a half-pint of milk served to non-needy children in a school or institution that participates in the Special Milk Program for Children. This rate is adjusted annually to reflect changes in the Producer Price Index for Fluid Milk Products, published by the Bureau of Labor Statistics of the Department of Labor.

National School Lunch and School Breakfast Programs—Pursuant to sections 11 and 17A of the Richard B. Russell National School Lunch Act, (42 U.S.C. 1759a and 1766a), and section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773), the Department annually announces the adjustments to the National Average Payment Factors and to the maximum Federal reimbursement rates for lunches and afterschool snacks served to children participating in the National School Lunch Program and breakfasts served to children participating in the School Breakfast Program. Adjustments are prescribed each July 1, based on changes in the Food Away From Home series of the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor.

Lunch Payment Levels—Section 4 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1753) provides general cash for food assistance payments to States to assist schools in purchasing food. The Richard B. Russell National School Lunch Act provides two different section 4 payment levels for lunches served under the National School Lunch Program. The lower payment level applies to lunches served by school food authorities in which less than 60 percent of the lunches served in the school lunch program during the second preceding school year were served free or at a reduced price. The higher payment level applies to lunches served by school food authorities in which 60 percent or more of the lunches served during the second preceding school year were served free or at a reduced price.

To supplement these section 4 payments, section 11 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1759 (a)) provides special cash assistance payments to aid schools in providing free and reduced price lunches. The section 11 National Average Payment Factor for each reduced price lunch served is set at 40 cents less than the factor for each free lunch.

As authorized under sections 8 and 11 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1757 and 1759a), maximum reimbursement rates for each type of lunch are prescribed by the Department in this Notice. These maximum rates are to ensure equitable disbursement of Federal funds to school food authorities.

Performance-Based Reimbursement—In addition to the funding mentioned above, school food authorities certified as meeting the meal pattern and nutrition standard requirements set forth in 7 CFR parts 210 and 220 are eligible to receive performance-based cash assistance for each reimbursable lunch served (an additional seven cents per lunch available beginning July 1, 2019, and adjusted annually thereafter).

Afterschool Snack Payments in Afterschool Care Programs—Section 17A of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766a) establishes National Average Payments for free, reduced price and paid afterschool snacks as part of the National School Lunch Program.

Breakfast Payment Factors—Section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) establishes National Average Payment Factors for free, reduced price, and paid breakfasts served under the School Breakfast Program and additional payments for free and reduced price breakfasts served in schools determined to be in ''severe need'' because they serve a high percentage of needy children.

Adjusted Payments

The following specific section 4, section 11, and section 17A National Average Payment Factors and maximum reimbursement rates for lunch, the afterschool snack rates, and the breakfast rates are in effect from July 1, 2021 through June 30, 2022. Due to a higher cost of living, the average payments and maximum reimbursements for Alaska, Guam, Hawaii, Puerto Rico, and the Virgin Islands are higher than those for all other States. The District of Columbia uses figures specified for the contiguous States. These rates do not include the value of USDA Foods or cash-in-lieu of USDA Foods which schools receive as additional assistance for each meal served to participants under the Program. A notice announcing the value of USDA Foods and cash-in-lieu of USDA Foods is published separately in the **Federal Register**.

Adjustments to the national average payment rates for all lunches served under the National School Lunch Program, breakfasts served under the School Breakfast Program, and afterschool snacks served under the National School Lunch Program are rounded down to the nearest whole cent.

Special Milk Program Payments

For the period July 1, 2021 through June 30, 2022, the rate of reimbursement for a half-pint of milk served to a non-needy child in a school or institution that participates in the Special Milk Program is 22.00 cents reflecting an increase of 1.75 cents from the School Year (SY) 2020–2021 level. This change is based on the 9.44 percent increase in the Producer Price Index for Fluid Milk Products from May 2020 to May 2021.

As a reminder, schools or institutions with pricing programs that elect to serve milk free to eligible children continue to receive the average cost of a half-pint of milk (the total cost of all milk purchased during the claim period divided by the total number of purchased half-pints) for each half-pint served to an eligible child.

National School Lunch Program Payments

Overall, payments for the National School Lunch Program and the Afterschool Snack Program either remained the same or increased from last year's payments due to a 4.04 percent increase in the national average payment rates for schools and residential child care institutions for the period July 1, 2021 through June 30, 2022 in the Consumer Price Index for All Urban Consumers for the food away from home series during the 12-month period May 2020 to May 2021 (from a level of 291.709 in May 2020, as previously published in the **Federal Register** to 303.481 in May 2021).

These changes are reflected below.

Section 4 National Average Payment Factors—In school food authorities that served less than 60 percent free and reduced price lunches in School Year (SY) 2019–2020, the payments for meals served are: *Contiguous States*—paid rate—35 cents (2 cents increase from the SY 2020—2021 level), free and reduced price rate—35 cents (2 cents increase), maximum rate—43 cents (2 cents increase); *Alaska*—paid rate—57 cents (3 cents increase), free and reduced price rate—57 cents (3 cents increase), maximum rate—68 cents (3 cents increase); *Guam, Hawaii, Puerto Rico, and the Virgin Islands*—paid rate—41 cents (2 cents increase), free and reduced price rate—41 cents (2 cents

increase), maximum rate—49 cents (2 cents increase).

In school food authorities that served 60 percent or more free and reduced price lunches in School Year 2019–2020, payments are: *Contiguous States*—paid rate—37 cents (2 cents increase from the SY 2020–2021 level), free and reduced price rate—37 cents (2 cents increase), maximum rate—43 cents (2 cents increase); *Alaska*—paid rate—59 cents (3 cents increase), free and reduced price rate—59 cents (3 cents increase), maximum rate—68 cents (3 cents increase); *Guam, Hawaii, Puerto Rico and the Virgin Islands*—paid rate—43 cents (2 cents increase), free and reduced price rate—43 cents (2 cents increase), maximum rate—49 cents (2 cents increase).

School food authorities certified to receive the performance-based cash assistance will receive an additional 7 cents (adjusted annually) added to the above amounts as part of their section 4 payments.

Section 11 National Average Payment Factors—Contiguous States—free lunch—3 dollars and 31 cents (13 cents increase from the SY 2020–2021 level), reduced price lunch—2 dollars and 91 cents (13 cents increase); *Alaska*—free lunch—5 dollars and 37 cents (21 cents increase), reduced price lunch—4 dollars and 97 cents (21 cents increase); *Guam, Hawaii, Puerto Rico and the Virgin Islands*—free lunch—3 dollars and 87 cents (15 cents increase), reduced price lunch—3 dollars and 47 cents (15 cents increase).

Afterschool Snacks in Afterschool Care Programs—The payments are: *Contiguous States*—free snack—1 dollar and 0 cents (4 cents increase from the SY 2020–2021 level), reduced price snack—50 cents (2 cents increase), paid snack—9 cents (1 cent increase); *Alaska*—free snack –1 dollar and 63 cents (7 cents increase), reduced price snack—81 cents (3 cents increase), paid snack—14 cents (no change); *Guam, Hawaii, Puerto Rico and the Virgin Islands*—free snack—1 dollar and 17 cents (4 cents increase), reduced price snack—58 cents (2 cent increase), paid snack—10 cents (no change).

School Breakfast Program Payments

Overall, payments for the National School Breakfast Program either remained the same or increased from last year's payments due to a 4.04 percent increase in the national average payment rates for schools and residential child care institutions for the period July 1, 2021 through June 30, 2022 in the Consumer Price Index for All Urban Consumers in the Food Away from Home series during the 12-month period May 2020 to May 2021 (from a level of 291.709 in May 2020, as previously published in the **Federal Register** to 303.481 in May 2021).

These changes are reflected below.

For schools ''not in severe need'' the payments are: *Contiguous States*—free breakfast—1 dollar and 97 cents (8 cents increase from the SY 2020–2021 level), reduced price breakfast—1 dollar and 67 cents (8 cents increase), paid breakfast—33 cents (1 cent increase); *Alaska*—free breakfast—3 dollars and 15 cents (12 cents increase), reduced price breakfast—2 dollars and 85 cents (12 cents increase), paid breakfast—50 cents (1 cent increase); *Guam, Hawaii, Puerto Rico and the Virgin Islands*—free breakfast—2 dollars and 29 cents (8 cents increase), reduced price breakfast—1 dollar and 99 cents (8 cents increase), paid breakfast—38 cents (1 cent increase).

For schools in ''severe need'' the payments are: *Contiguous States*—free breakfast—2 dollars and 35 cents (9 cents increase from the SY 2020–2021 level), reduced price breakfast—2 dollars and 5 cents (9 cents increase), paid breakfast—33 cents (1 cent increase); *Alaska*—free breakfast—3 dollars and 78 cents (14 cents increase), reduced price breakfast—3 dollars and 48 cents (14 cents increase), paid breakfast—50 cents (1 cent increase); *Guam, Hawaii, Puerto Rico and the Virgin Islands*—free breakfast—2 dollars and 74 cents (10 cents increase), reduced price breakfast—2 dollars and 44 cents (10 cents increase), paid breakfast—38 cents (1 cent increase).

Payment Chart

The following chart illustrates the lunch National Average Payment Factors with the sections 4 and 11 already combined to indicate the per lunch amount; the maximum lunch reimbursement rates; the reimbursement rates for afterschool snacks served in afterschool care programs; the breakfast National Average Payment Factors including severe need schools; and the milk reimbursement rate. All amounts are expressed in dollars or fractions thereof. The payment factors and reimbursement rates used for the District of Columbia are those specified for the contiguous States.

BILLING CODE 3410–30–P

SCHOOL PROGRAMS

MEAL, SNACK AND MILK PAYMENTS TO STATES AND SCHOOL FOOD AUTHORITIES

Expressed in Dollars or Fractions Thereof

Effective from: July 1, 2021 - June 30, 2022

NATIONAL SCHOOL LUNCH PROGRAM[1]		LESS THAN 60%	LESS THAN 60% + 7 cents[2]	60% OR MORE	60% or MORE + 7 cents[2]	MAXIMUM RATE	MAXIMUM RATE + 7 cents[2]
CONTIGUOUS STATES	PAID	0.35	0.42	0.37	0.44	0.43	0.50
	REDUCED PRICE	3.26	3.33	3.28	3.35	3.43	3.59
	FREE	3.66	3.73	3.68	3.75	3.83	3.90
ALASKA	PAID	0.57	0.64	0.59	0.66	0.68	0.75
	REDUCED PRICE	5.54	5.61	5.56	5.63	5.79	5.86
	FREE	5.94	6.01	5.96	6.03	6.19	6.26
GUAM, HAWAII, PUERTO RICO and VIRGIN ISLANDS	PAID	0.41	0.48	0.43	0.50	0.49	0.56
	REDUCED PRICE	3.88	3.95	3.90	3.97	4.07	4.14
	FREE	4.28	4.35	4.30	4.37	4.47	4.54

SCHOOL BREAKFAST PROGRAM		NON-SEVERE NEED	SEVERE NEED
CONTIGUOUS STATES	PAID	0.33	0.33
	REDUCED PRICE	1.67	2.05
	FREE	1.97	2.35
ALASKA	PAID	0.50	0.50
	REDUCED PRICE	2.85	3.48
	FREE	3.15	3.78
GUAM, HAWAII, PUERTO RICO and VIRGIN ISLANDS	PAID	0.38	0.38
	REDUCED PRICE	1.99	2.44
	FREE	2.29	2.74

SPECIAL MILK PROGRAM	ALL MILK	PAID MILK	FREE MILK
PRICING PROGRAMS WITHOUT FREE OPTION	0.2200	N/A	N/A
PRICING PROGRAMS WITH FREE OPTION	N/A	0.2200	Average Cost Per 1/2 Pint of Milk
NONPRICING PROGRAMS	0.2200	N/A	N/A

AFTERSCHOOL SNACKS SERVED IN AFTERSCHOOL CARE PROGRAMS		
CONTIGUOUS STATES	PAID	0.09
	REDUCED PRICE	0.50
	FREE	1.00
ALASKA	PAID	0.14
	REDUCED PRICE	0.81
	FREE	1.63
GUAM, HAWAII, PUERTO RICO and VIRGIN ISLANDS	PAID	0.10
	REDUCED PRICE	0.58
	FREE	1.17

[1] Payment listed for Free and Reduced Price Lunches include both section 4 and section 11 funds

[2] Performance-based cash reimbursement (adjusted annually for inflation)

BILLING CODE 3410–30–C

This action is not a rule as defined by the Regulatory Flexibility Act (5 U.S.C. 601–612) and thus is exempt from the provisions of that Act. This notice has

been determined to be exempt under Executive Order 12866.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), no new recordkeeping or reporting requirements have been included that are subject to approval from the Office of Management and Budget.

National School Lunch, School Breakfast, and Special Milk Programs are listed in the Catalog of Federal Domestic Assistance under No. 10.555, No. 10.553, and No. 10.556, respectively, and are subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials (See 2 CFR 415.3–415.6).

Authority: Sections 4, 8, 11, and 17A of the Richard B. Russell National School Lunch Act, as amended, (42 U.S.C. 1753, 1757, 1759a, 1766a) and sections 3 and 4(b) of the Child Nutrition Act, as amended, (42 U.S.C. 1772 and 42 U.S.C. 1773(b)).

Cynthia Long,

Acting Administrator, Food and Nutrition Service.

[FR Doc. 2021–15107 Filed 7–15–21; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Information Collection Activities: Revision of a Currently Approved Information Collection; Comment Request; Self-Help Technical Assistance Grants

AGENCY: Rural Housing Service, USDA.

ACTION: 60-Day notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the Rural Housing Service (RHS) to request an extension for a currently approved information collection in support of the program for Self-Help Technical Assistance Grants.

DATES: Comments on this notice must be received by September 14, 2021 to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Andrea Birmingham, Finance and Loan Analyst, Single Family Housing Direct Loan Division, RHS, U.S. Department of Agriculture, Stop 0783, 1400 Independence Ave. SW, Washington, DC 20250–0783, Telephone (202) 720–1489.

SUPPLEMENTARY INFORMATION:

Title: 7 CFR 1944–I, Self-Help Technical Assistance Grants.

OMB Docket Number: 0575–0043.

Expiration Date of Approval: December 31, 2021.

Type of Request: Revision of currently approved information collection.

Abstract: This subpart set forth the policies and procedures and delegates authority for providing technical assistance funds to eligible applicants to finance programs of technical and supervisory assistance for self-help housing loan program, as authorized under section 523 of the Housing Act of 1949 under 42 U.S.C. 1472. This financial assistance may pay part or all of the cost of developing, administering, or coordinating a program of technical and supervisory assistance to aid very low- and low-income families in carrying out self-help housing efforts in rural areas. The primary purpose is to locate and work with families that otherwise do not qualify as homeowners, are below low and very low incomes, and living in substandard housing. RHS will be collecting information from non-profit organizations to enter into grant agreements. These non-profit organizations will give technical and supervisory assistance, and in doing so, they must develop a final application for section 523 grant funds. This application includes Agency forms that contain essential information for deciding eligibility.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 1.08 hours per response.

Respondents: Public or private nonprofit organizations, State, Local or Tribal Governments.

Estimated Number of Respondents: 70.

Estimated Number of Responses per Respondent: 30.94.

Estimated Number of Responses: 2,166.

Estimated Total Annual Burden on Respondents: 2,345.

Copies of this information collection can be obtained from Kimble Brown, Innovation Center—Regulations Management Division, at (202) 720–6780.

Comments: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the RHS, including whether the information will have practical utility; (b) the accuracy of RHS's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Chadwick A. Parker,

Acting Administrator, Rural Housing Service.

[FR Doc. 2021–15104 Filed 7–15–21; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S–100–2021]

Foreign-Trade Zone 50—Long Beach, California, Application for Expansion of Subzone 50R, VF Outdoor, LLC, Corona, Ontario, and Santa Fe Springs, California

An application has been submitted to the Foreign-Trade Zones (FTZ) Board by the Port of Long Beach, grantee of FTZ 50, requesting an expansion of Subzone 50R on behalf of VF Outdoor, LLC, located in Ontario, California. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the FTZ Board (15 CFR part 400). It was formally docketed on July 12, 2021.

Subzone 50R consists of the following sites: Site 1 (13.55 acres) 3950 East Airport Drive, Ontario, San Bernardino County; Site 2 (22.09 acres) 15614–15620 and 15700 Shoemaker Avenue, Santa Fe Springs, Los Angeles County; and, Site 3 (11.5 acres) 2571 Sampson Avenue, Corona, Riverside County.

The applicant is now requesting authority to expand the subzone to include an additional site (54.78 acres) located at 5051 South Carpenter Avenue, Ontario, San Bernardino County, which would be designated as Site 4. The expanded subzone would be subject to the existing activation limit of FTZ 50.

In accordance with the FTZ Board's regulations, Qahira El-Amin of the FTZ Staff is designated examiner to review the application and make recommendations to the Executive Secretary.

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary and sent to: *ftz@trade.gov.* The closing period for their receipt is August

25, 2021. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to September 9, 2021.

A copy of the application will be available for public inspection in the ''Reading Room'' section of the FTZ Board's website, which is accessible via *www.trade.gov/ftz.*

For further information, contact Qahira El-Amin at *Qahira.El-Amin@trade.gov.*

Dated: July 12, 2021.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2021–15128 Filed 7–15–21; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–23–2021]

Foreign-Trade Zone (FTZ) 7—Mayaguez, Puerto Rico, Authorization of Production Activity, IPR Pharmaceuticals, Inc. (Pharmaceutical Products), Canovanas, Puerto Rico

On March 15, 2021, IPR Pharmaceuticals, Inc., submitted a notification of proposed production activity to the FTZ Board for its facility within FTZ 7, in Canovanas, Puerto Rico.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (86 FR 15642, March 24, 2021). On July 13, 2021, the applicant was notified of the FTZ Board's decision that no further review of the activity is warranted at this time. The production activity described in the notification was authorized, subject to the FTZ Act and the FTZ Board's regulations, including Section 400.14.

Dated: July 13, 2021.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2021–15126 Filed 7–15–21; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–533–884]

Glycine From India: Preliminary Results of Countervailing Duty Administrative Review; 2018–2019

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

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that countervailable subsidies are being provided to producers and exporters of glycine from India for the period of review (POR) September 4, 2018, through December 31, 2019. The preliminary net subsidy rates are listed below in the section titled ''Preliminary Results of Administrative Review.'' Interested parties are invited to comment on these preliminary results.

DATES: Applicable July 16, 2021.

FOR FURTHER INFORMATION CONTACT: Davina Friedmann, 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) 482–0698.

SUPPLEMENTARY INFORMATION:

Background

On August 6, 2020, Commerce published a notice of initiation of administrative review of the countervailing duty order on glycine from India.[1] On March 2, 2021, Commerce extended the deadline for issuing the preliminary results of review.[2] The revised deadline for these preliminary results of review is now June 30, 2021.

For a complete description of the events that followed the initiation of this review, *see* the Preliminary Decision Memorandum.[3] A list of topics discussed in the Preliminary Decision Memorandum is included at Appendix I to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/.*

Scope of the Order

The merchandise covered by the order is glycine from India. For a complete description of the scope of the order, *see* the Preliminary Decision Memorandum.

Methodology

Commerce is conducting this review in accordance with section 751(a)(1)(A) of the Tariff Act of 1930, as amended (the Act). For each of the subsidy programs found countervailable, we preliminarily determine that there is a subsidy, *i.e.,* a financial contribution that gives rise to a benefit to the recipient, and the subsidy is specific.[4] For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum.

On June 11, 2021, we initiated an investigation of newly alleged subsidy programs.[5] Because we did not receive information from the Government of India, Avid Organics Private Limited (Avid), or Kumar Industries (India) (Kumar) related to the new subsidy programs in time to evaluate them for purposes of these preliminary results of review, we intend to issue post-preliminary review results that incorporate these programs.[6]

Companies Not Selected for Individual Review

For companies not selected for individual review, because the 2019 subsidy rates calculated for Avid and Kumar were above *de minimis* and not based on facts available, we have preliminarily calculated a subsidy rate based on a weighted-average of the subsidy rates calculated for Avid and Kumar using publicly ranged sales data submitted by respondents.[7] For 2018, we preliminarily assigned to the companies not individually examined a subsidy rate of 3.58 percent, which is the 2018 subsidy rate calculated for Avid for these preliminary results of

[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 85 FR 47731 (August 6, 2020).

[2] *See* Memorandum, ''Glycine from India: Extension of Time Limit for Preliminary Results,'' dated March 2, 2021.

[3] *See* Memorandum, ''Decision Memorandum for the Affirmative Preliminary Determination: First Administrative Review of Glycine from India,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[4] *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

[5] *See* Memorandum, ''Administrative Review of the Countervailing Duty Order on Glycine from India; 2018–2019, New Subsidy Allegations,'' dated June 17, 2021.

[6] *See* Preliminary Decision Memorandum.

[7] *See* Memorandum, ''Calculation of Subsidy Rate for Non-Selected Companies,'' dated June 30, 2021.

review.[8] This methodology for establishing the subsidy rate for the non-selected companies is consistent with our practice and with section 705(c)(5)(A) of the Act. For additional information, *see* the Preliminary Decision Memorandum.

Preliminary Results of Administrative Review

In accordance with 19 CFR 351.221(b)(4), we determine the following preliminary net subsidy rates for the 2018–2019 administrative review:

Company	2018 Subsidy rate (percent *ad valorem*)	2019 Subsidy rate (percent *ad valorem*)
Avid Organics Private Limited[9]	3.92	4.38
Kumar Industries (India)[10]	[11] 0.00	3.72
Mulji Mehta Enterprises	3.92	4.01
Mulji Mehta Pharma ..	3.92	4.01
Paras Intermediates Private Limited ...	3.92	4.01
Studio Disrupt	3.92	4.01

Assessment Rates

Consistent with section 751(a)(2)(C) of the Act, upon issuance of the final results, Commerce shall determine, and U.S. Customs and Border Protection (CBP) shall assess, countervailing duties on all appropriate entries covered by this review. Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Cash Deposit Requirements

In accordance with section 751(a)(1) of the Act, Commerce intends to instruct CBP to collect cash deposits of estimated countervailing duties in the amounts shown for 2019 for each of the companies listed above with regard to the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review. For all non-reviewed firms, we will instruct CBP to continue to collect cash deposits at the most recent company-specific or all-others rate applicable to the company, as appropriate. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Disclosure and Public Comment

We will disclose to parties of this proceeding the calculations performed in reaching the preliminary results within five days of the date of publication of these preliminary results.[12]

As a result of the Department's intention to release a post-preliminary analysis memorandum, interested parties may submit case briefs on both the preliminary results and on the post-preliminary analysis memorandum no later than seven days after the disclosure of the calculations performed in connection with the post-preliminary analysis memorandum.[13] Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than seven days after the date for filing case briefs.[14] [15] Parties who submit arguments are requested to submit with the argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[16] Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.[17]

Interested parties who wish to request a hearing must do so within 30 days of publication of these preliminary results by submitting a written request to the Assistant Secretary for Enforcement and Compliance using Enforcement and Compliance's ACCESS system.[18] Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case and rebuttal briefs.[19] If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm the date and time of the hearing two days before the scheduled date. Parties are reminded that all briefs and hearing requests must be filed electronically using ACCESS and received successfully in their entirety by 5:00 p.m. Eastern Time on the due date.

Unless the deadline is extended pursuant to section 751(a)(3)(A) of the Act, Commerce intends to issue the final results of this administrative review, including the result of our analysis of the issues raised by the parties in their comments, no later than 120 days after the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Act and 19 CFR 351.213(h), unless this deadline is extended.

Administrative Protective Order

This notice serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

This administrative review and notice are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213.

Dated: June 30, 2021.

Christian Marsh,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Memorandum

I. Summary
II. Background
III. Period of Review
IV. Rate for Non-Examined Companies
V. Subsidies Valuation
VI. Loan Benchmarks and Discount Rates

[8] *See* Memorandum, ''Preliminary Results of the First Administrative Review of Glycine from India: Calculation of Derivative Rate for Non-Selected Companies,'' dated June 30, 2021.

[9] In this review, we preliminarily determine that Avid is cross owned with Avid Intermediates. *See* Preliminary Decision Memorandum for further discussion.

[10] In this review, we preliminarily determine that Kumar is cross owned with Rudraa International and Advance Chemical Corporation. *See* Preliminary Decision Memorandum and Kumar Preliminary Calculation Memorandum for further discussion.

[11] Kumar reported that it received no subsidies during the 2018 calendar year, from programs under review or any other subsidies.

[12] *See* 19 CFR 351.224(b).

[13] *See* 19 CFR 351.309(c)(2).

[14] *See* 19 CFR 351.309(d).

[15] *See* 19 CFR 351.309(c)(1)(ii) and 351.309(d)(1); *see also Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 41363 (July 10, 2020) (*Temporary Rule*).

[16] *See* 19 CFR 351.309(c)(2) and 351.309(d)(2).

[17] *See Temporary Rule.*

[18] *See* 19 CFR 351.310(c).

[19] *See* 19 CFR 351.310.

VII. Analysis of Programs
VIII. Recommendation

[FR Doc. 2021–15123 Filed 7–15–21; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–580–879]

Certain Corrosion-Resistant Steel Products From the Republic of Korea: Preliminary Results of Countervailing Duty Administrative Review, 2019

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

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that countervailable subsidies are being provided to producers and exporters of certain corrosion-resistant steel products (CORE) from the Republic of Korea. The period of review (POR) is January 1, 2019, through December 31, 2019.

DATES: Applicable July 16, 2021.

FOR FURTHER INFORMATION CONTACT: Dennis McClure or Joshua Simonidis, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–5973 and (202) 482–0608, respectively.

SUPPLEMENTARY INFORMATION:

Background

On July 21, 30, and 31, 2020, we received requests for multiple administrative reviews.[1] On September 3, 2020, Commerce published a notice of initiation of an administrative review of the countervailing duty (CVD) order on CORE from Korea.[2] On October 6, 2020, Commerce selected KG Dongbu Steel Co., Ltd. (KG Dongbu Steel) (formerly Dongbu Steel Co., Ltd.)/ Dongbu Incheon Steel Co., Ltd. (collectively, Dongbu) and Hyundai Steel Company as mandatory respondents in this administrative review.[3]

On March 4, 2021, and March 24, 2021, Commerce extended the deadline for the preliminary results of this review.[4]

For a complete description of the events that followed the initiation of this review, *see* the Preliminary Decision Memorandum.[5] A list of topics discussed in the Preliminary Decision Memorandum is included at the Appendix I to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/.*

Scope of the Order

The merchandise covered by the order is certain corrosion-resistant steel products. For a complete description of the scope of the order, *see* the Preliminary Decision Memorandum.

Methodology

Commerce is conducting this review in accordance with section 751(a)(l)(A) of the Tariff Act of 1930, as amended (the Act). For each of the subsidy programs found countervailable, we preliminarily determine that there is a subsidy, *i.e.,* a financial contribution from an authority that gives rise to a benefit to the recipient, and that the subsidy is specific.[6] For a full description of the methodology underlying our conclusions, *see* the accompanying Preliminary Decision Memorandum.

Preliminary Rate for Non-Selected Companies Under Review

The statute and Commerce's regulations do not directly address the CVD rates to be applied to companies not selected for individual examination where Commerce limited its examination in an administrative review pursuant to section 777A(e)(2) of the Act. However, Commerce normally determines the rates for non-selected companies in reviews in a manner that is consistent with section 705(c)(5) of the Act, which provides instructions for calculating the all-others rate in an investigation. Section 777A(e)(2) of the Act provides that ''the individual countervailable subsidy rates determined under subparagraph (A) shall be used to determine the all-others rate under section 705(c)(5) {of the Act}.'' Section 705(c)(5)(A) of the Act states that for companies not investigated, in general, we will determine an all-others rate by weight-averaging the countervailable subsidy rates established for each of the companies individually investigated, excluding zero and *de minimis* rates or any rates based solely on the facts available.

We preliminarily determine that Dongbu is the only mandatory respondent that received countervailable subsidies that are above *de minimis.* Therefore, we preliminarily determine to apply the net subsidy rate calculated for Dongbu to the non-selected companies. For a list of the 36 companies for which a review was requested, and which were not selected as mandatory respondents or found to be cross-owned with a mandatory respondent, *see* Appendix II to this notice.

Preliminary Results of the Review

As a result of this review, we preliminarily determine the net countervailable subsidy rates to be:

Producer/exporter	Subsidy rate (percent)
KG Dongbu Steel Co., Ltd. (formerly Dongbu Steel Co., Ltd.)/ Dongbu Incheon Steel Co., Ltd	10.52
Hyundai Steel Company	*0.48
Non-Selected Companies Under Review[7]	10.52

*(*de minimis*).

Disclosure and Public Comment

We intend to disclose to interested parties the calculations performed for these preliminary results within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). Interested parties may submit case briefs no later than 30 days after the date of publication of these preliminary results of review.[8] Rebuttals to case briefs may be filed no later than seven days after the case briefs are filed,

[1] *See* Petitioners' Letter, ''Request for Administrative Review,'' dated July 31, 2020; *see also* POSCO C&C's Letter, ''Administrative Review Request,'' dated July 30, 2020; Hyundai Steel's Letter, ''Request for Administrative Review,'' dated July 21, 2020; and POSCO's Letter, ''Administrative Review Request,'' dated July 21, 2020.

[2] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 85 FR 54983 (September 3, 2020).

[3] On October 27, 2020, KG Dongbu Steel reported that it changed its name from Dongbu Steel to KG Dongbu Steel. *See* Dongbu's Letter, ''Affiliated Companies Response,'' dated October 27, 2020.

[4] *See* Memoranda, ''Extension of Deadline for the Preliminary Results of the 2019 Countervailing Duty Administrative Review,'' dated March 4, 2021, and March 24, 2021, respectively.

[5] *See* Memorandum, ''Decision Memorandum for the Preliminary Results of the Countervailing Duty Administrative Review; 2019: Certain Corrosion-Resistant Steel Products from the Republic of Korea,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[6] *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

[7] *See* Appendix II.

[8] *See* 19 CFR 351.309(c).

and all rebuttal comments must be limited to comments raised in the case briefs.[9] Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information until further notice.[10]

Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this review are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Unless extended, we intend to issue the final results of this administrative review, which will include the results of our analysis of the issues raised in the case briefs, within 120 days of publication of these preliminary results in the **Federal Register**, pursuant to section 751(a)(3)(A) of the Act and 19 CFR 351.213(h).

Assessment Rate

In accordance with 19 CFR 351.221(b)(4)(i), we preliminarily assigned subsidy rates in the amounts shown above for the producer/exporters shown above. Upon completion of the administrative review, consistent with section 751(a)(1) of the Act and 19 CFR 351.212(b)(2), Commerce shall determine, and U.S. Customs and Border Protection (CBP) shall assess, countervailing duties on all appropriate entries covered by this review. Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Cash Deposit Requirements

In accordance with section 751(a)(1) of the Act, Commerce intends, upon publication of the final results, to instruct CBP to collect cash deposits of estimated countervailing duties in the amounts shown for each of the respective companies listed above on shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review. For all non-reviewed firms, we will instruct CBP to continue to collect cash deposits at the most recent company-specific or all others rate applicable to the company. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Interested Parties

These preliminary results are issued and published pursuant to sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221(b)(4).

Dated: July 12, 2021.

Christian Marsh,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix I

List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Period of Review
IV. Scope of the Order
V. Subsidies Valuation Information
VI. Analysis of Programs
VII. Recommendation

Appendix II

List of Non-Selected Companies

1. Ajin H & S Co., Ltd.
2. AJU Steel Co., Ltd.
3. B&N International
4. CDS Global Logistics
5. Dong A Hwa Sung Co., Ltd.
6. Dongkuk International, Inc.
7. Dongkuk Steel Mill Co., Ltd.
8. Korea Clad Tech. Co., Ltd.
9. Pantos Logistics Co., Ltd.
10. PL Special Steel Co., Ltd.
11. POSCO
12. POSCO C&C
13. POSCO Coated & Color Steel Co., Ltd.
14. POSCO Daewoo Corp.
15. Samsung C&T Corporation
16. Samsung Electronics Co., Ltd.
17. Sanglim Steel Co., Ltd.
18. SeAH Coated Metal
19. SeAH Steel Corporation
20. Seajin St. Industry, Ltd.
21. Sejung Shipping Co., Ltd.
22. Seun Steel Co., Ltd.
23. Segye Chemical Industry Co., Ltd.
24. Shandongsheng Cao Xian Yalu Mftd.
25. Shengzhou Hanshine Import and Export Trade
26. Soon Hong Trading Co., Ltd.
27. Southern Steel Sheet Co., Ltd.
28. SSangyong Manufacturing
29. Sung A Steel Co., Ltd.
30. SW Co., Ltd.
31. SY Co., Ltd.
32. Syon
33. TCC Steel. Co., Ltd.
34. Young Steel Korea Co., Ltd.
35. Young Sun Steel Co.
36. Young Steel Co.

[FR Doc. 2021–15152 Filed 7–15–21; 8:45 am]

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[9] See 19 CFR 351.309(d).

[10] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 29615 (May 18, 2020); and *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 41363 (July 10, 2020).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–848]

Stilbenic Optical Brightening Agents From Taiwan: Preliminary Results of Antidumping Duty Administrative Review; 2019–2020

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

SUMMARY: The Department of Commerce (Commerce) preliminarily finds that Teh Fong Min International Co., Ltd. (TFM), the sole producer and/or exporter subject to this administrative review, made sales of stilbenic optical brightening agents (OBAs) at less than normal value (NV) during the period of review (POR) May 1, 2019, through April 30, 2020. We invite interested parties to comment on these preliminary results.

DATES: Applicable July 16, 2021.

FOR FURTHER INFORMATION CONTACT: Dmitry Vladimirov, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington DC 20230; telephone (202) 482–0665.

SUPPLEMENTARY INFORMATION:

Background

On May 10, 2012, we published in the **Federal Register** an antidumping duty order on OBAs from Taiwan.[1] On May 1, 2020, we published in the **Federal Register** a notice of opportunity to request an administrative review of the

[1] *See Certain Stilbenic Optical Brightening Agents from Taiwan: Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order,* 77 FR 27419 (May 10, 2012) (*Order*).

Order.[2] On July 10, 2020, based on timely requests for an administrative review, Commerce initiated an administrative review of one company, TFM.[3]

On July 21, 2020, Commerce tolled all deadlines in administrative reviews by 60 days, thereby tolling the deadline for the preliminary results of review until April 1, 2021.[4] On March 12, 2021, Commerce extended the time limit for issuing the preliminary results of this review by 120 days to no later than July 30, 2021.[5]

Scope of the Order

The products covered by the *Order* are OBAs. A full description of the scope of the *Order* is contained in the Preliminary Decision Memorandum.[6]

Methodology

Commerce is conducting this review in accordance with section 751(a)(2) of the Act. Export price and constructed export price are calculated in accordance with section 772 of the Act. NV is calculated in accordance with section 773 of the Act. For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum. A list of the topics discussed in the Preliminary Decision Memorandum is attached as an Appendix to this notice. The Preliminary Decision Memorandum is a public document and is made available to the public via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be found at *http://enforcement.trade.gov/frn/.*

Preliminary Results of the Administrative Review

We preliminarily determine that the following weighted-average dumping margin exists for TFM for the period May 1, 2019, through April 30, 2020:

Producer or exporter	Weighted-average dumping margin (percent)
Teh Fong Min International Co., Ltd	2.91

Disclosure and Public Comment

We intend to disclose the calculations performed for these preliminary results to parties within five days after public announcement of the preliminary results in accordance with 19 CFR 351.224(b).

Pursuant to 19 CFR 351.309(c), interested parties may submit case briefs no later than 30 days after the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than seven days after the date for filing case briefs.[7] Commerce has modified certain of its requirements for serving documents containing business proprietary information until further notice.[8] Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[9]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via ACCESS. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case briefs. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. An electronically filed hearing request must be received successfully in its entirety by Commerce's electronic records system, ACCESS, by 5:00 p.m. Eastern Time within 30 days after the date of publication of this notice.[10]

Commerce intends to issue the final results of this administrative review, including the results of its analysis of the issues raised in any written briefs, no later than 120 days after the date of publication of this notice, unless extended, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rates

Upon completion of the final results, Commerce will determine and U.S. Customs and Border Protection (CBP) shall assess antidumping duties on all appropriate entries covered by this review.[11] If the weighted-average dumping margin for TFM is not zero or *de minimis* (*i.e.,* less than 0.50 percent) in the final results of this review, we intend to calculate an importer-specific assessment rate based on the ratio of the total amount of dumping calculated for each importer's examined sales and the total entered value of the sales in accordance with 19 CFR 351.212(b)(1).[12] If TFM's weighted-average dumping margin or an importer-specific assessment rate is zero or *de minimis* in the final results of review, then we intend to instruct CBP not to assess duties on any of its entries in accordance with the *Final Modification for Reviews*.[13] The final results of this administrative review shall be the basis for the assessment of antidumping duties on entries of merchandise under review and for future deposits of estimated duties, where applicable.

For entries of subject merchandise during the POR produced by TFM 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.[14]

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this

[2] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review,* 85 FR 29354 (May 1, 2020).

[3] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 85 FR 41450, 41544 (July 10, 2020).

[4] *See* Memorandum, ''Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Reviews,'' dated July 21, 2020.

[5] *See* Memorandum, ''Stilbenic Optical Brightening Agents from Taiwan: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review, 2019–2020,'' dated March 12, 2021.

[6] *See* Memorandum, ''Certain Stilbenic Optical Brightening Agents from Taiwan: Decision Memorandum for the Preliminary Results of Antidumping Duty Administrative Review; 2019–2020,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[7] *See* 19 CFR 351.309(d); *see also Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19,* 85 FR 17006, 17007 (March 26, 2020) (''To provide adequate time for release of case briefs via ACCESS, E&C intends to schedule the due date for all rebuttal briefs to be 7 days after case briefs are filed (while these modifications remain in effect).''

[8] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 41363 (July 10, 2020).

[9] *See* 19 CFR 351.303 (for general filing requirements).

[10] *See* 19 CFR 351.310(c).

[11] *See* 19 CFR 351.212(b)(1).

[12] In these preliminary results, Commerce applied the assessment rate calculation method adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification,* 77 FR 8101 (February 14, 2012) (*Final Modification for Reviews*).

[13] *See Final Modification for Reviews,* 77 FR at 8103; *see also* 19 CFR 351.106(c)(2).

[14] *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication in the **Federal Register** of the notice of final results of administrative review for all shipments of OBAs from Taiwan entered, or withdrawn from warehouse, 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 TFM, subject to this review, will be equal to the weighted-average dumping margin established for it in the final results of the review; (2) for merchandise exported by a company not covered in this review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published in the completed segment for the most recent period; (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 in the completed segment for the most recent period for the producer of the merchandise; (4) the cash deposit rate for all other producers or exporters will be the all-others rate established in the less-than-fair-value investigation for this proceeding, 6.19 percent.[15] These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this period of review. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification to Interested Parties

Commerce is issuing and publishing these results in accordance with sections 751(a)(1) and 777(i) of the Act and 19 CFR 351.221(b)(4).

[15] *See Order,* 91 FR at 27420.

Dated: July 12 2021.

Christian Marsh,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Scope of the Order
IV. Discussion of the Methodology
V. Currency Conversion
VI. Recommendation

[FR Doc. 2021–15153 Filed 7–15–21; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Socio-Economic Survey of Hired Captains and Crew in New England, Mid-Atlantic, South Atlantic and Gulf of Mexico Commercial Fisheries

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on January 25, 2021, (86 FR 6877) during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: National Oceanic and Atmospheric Administration (NOAA), Commerce.

Title: Socio-Economic Survey of Hired Captains and Crew in New England, Mid-Atlantic, South Atlantic and Gulf of Mexico Commercial Fisheries.

OMB Control Number: 0648–0636.

Form Number(s): None.

Type of Request: Regular submission (revision of a currently approved collection).

Number of Respondents: 937.

Average Hours per Response: 20 minutes.

Total Annual Burden Hours: 83.

Needs and Uses: This is a request for revision and extension of an approved information collection.

The revision (1) expands the geographic scope from New England and the Mid-Atlantic only to include New England, Mid-Atlantic, South Atlantic and Gulf of Mexico commercial fisheries, (2) revises the title of the collection from Socio-Economic Survey of Hired Captains and Crew in New England and Mid-Atlantic Commercial Fisheries to Socio-Economic Survey of Hired Captains and Crew in New England, Mid-Atlantic, South Atlantic and Gulf of Mexico Commercial Fisheries, and (3) makes minor revisions to the survey form to address regional differences in fisheries.

The NEFSC and SEFSC seek to conduct surveys to provide for the ongoing collection of social and economic data related to the fishing industries in those states. The purpose of this survey is to assess and track over time the social and economic conditions of commercial fishing crews and hired captains for which little is known. This survey will provide data on social and economic impacts for this population and the changes in fisheries as a result of regulatory changes. Data to be collected include demographic information on crew, wage calculations systems, individual and community well-being, fishing practices, job satisfaction, job opportunities, and attitudes toward fisheries management. The National Environmental Policy Act (NEPA) and Magnuson-Stevens Conservation and Management Act (MSA) both contain requirements for considering the social and economic impacts of fishery management decisions. There is a need to understand how such fishery management policies and programs will affect the social and economic characteristics of those involved in the commercial fishing industry. To help meet these requirements of NEPA and MSA, the NEFSC and SEFSC will collect data on an ongoing basis to track how socio-economic characteristics of fisheries are changing over time and the impact of fishery management policies and programs implemented in New England, Mid-Atlantic, South Atlantic and Gulf of Mexico regions.

Affected Public: Individuals or households and Business or other for-profit organizations;

Frequency: Every 3 to 5 years.

Respondent's Obligation: Voluntary.

Legal Authority: Magnuson-Stevens Fishery Conservation and Management Act.

This information collection request may be viewed at *www.reginfo.gov.*

Follow the instructions to view the Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function and entering either the title of the collection or the OMB Control Number 0648–0636.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2021–15164 Filed 7–15–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB241]

Mid-Atlantic Fishery Management Council (MAFMC); Public Meetings

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

ACTION: Notice; public meetings.

SUMMARY: The Mid-Atlantic Fishery Management Council (Council) will hold a four-day meeting to consider actions affecting Mid-Atlantic fisheries in the exclusive economic zone (EEZ). This will be conducted as a hybrid meeting, with options to participate in person or virtually. Portions of the meeting will be conducted jointly with the Atlantic States Marine Fisheries Commission's Bluefish Management Board, Summer Flounder, Scup, and Black Sea Bass Management Board, and Interstate Fisheries Management Program Policy Board.

DATES: The meeting will be held Monday, August 9, 2021, from 9:30 a.m. to 4:30 p.m., Tuesday, August 10, 2021, from 9 a.m. to 5 p.m., Wednesday, August 11, 2021, from 9 a.m. to 5 p.m., and Thursday, August 12, 2021, from 9 a.m. to 1 p.m. For agenda details, see **SUPPLEMENTARY INFORMATION.**

ADDRESSES: The meeting will be a hybrid meeting offering both in-person and virtual options for attending the meeting. Council members, other meeting participants, and members of the public will have the option to participate in person at the Notary Hotel, located at 21 N Juniper St., Philadelphia, PA 19107, or via Webex webinar. Webinar connection information can be accessed at *www.mafmc.org.*

Council address: Mid-Atlantic Fishery Management Council, 800 N State St., Suite 201, Dover, DE 19901; telephone: (302) 674–2331.

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore, Ph.D., Executive Director, Mid-Atlantic Fishery Management Council; telephone: (302) 526–5255. The Council's website, *www.mafmc.org* also has details on the meeting location, proposed agenda, webinar information, and briefing materials.

SUPPLEMENTARY INFORMATION: The following items are on the agenda, though agenda items may be addressed out of order (changes will be noted on the Council's website when possible.)

Monday, August 9, 2021

Bluefish 2022–23 Specifications

Review recommendations from the Scientific and Statistical Committee (SSC), Monitoring Committee, Advisory Panel, and staff and adopt specifications for 2022–23.

ASMFC Bluefish Fishery Management Plan Review (Bluefish Board only).

Summer Flounder 2022–23 Specifications

Review recommendations from the SSC, Monitoring Committee, Advisory Panel, and staff and adopt specifications for 2022–23.

Scup 2022–23 Specifications

Review recommendations from the SSC, Monitoring Committee, Advisory Panel, and staff and adopt specifications for 2022–23.

Black Sea Bass 2022–23 Specifications

Review recommendations from the SSC, Monitoring Committee, Advisory Panel, and staff and adopt specifications for 2022–23.

Tuesday, August 10, 2021

Recreational Harvest Control Rule Framework/Addendum (Framework Meeting #1)

Review and approve initial range of alternatives and discuss next steps.

Ecosystem Approach to Fisheries Management Summer Flounder Management Strategy Evaluation

Review core group recommendations and determine MSE objectives and alternatives.

Summer Flounder, Scup, and Black Sea Bass Commercial/Recreational Allocation Amendment

Consider approval of any Council/Board proposals for additional alternatives.

North Atlantic Right Whales

Presentation on Atlantic Large Whale Take Reduction Team Scoping for Risk Reduction Measures for Atlantic Trap/Pot and Gillnet Fisheries.

Council Awards and Acknowledgements

Wednesday, August 11, 2021

Swearing In of New and Reappointed Council Members

Election of Officers

Golden Tilefish—Multi-Year Specifications Framework—Meeting #2

Review recommendations for golden tilefish specifications from the Advisory Panel, SSC, Monitoring Committee, and staff and recommend any changes to (previously set) 2022 golden tilefish specifications if necessary.

Approve 2023–24 golden tilefish specifications.

Review alternatives and approve Framework document for submission (final action).

Atlantic Mackerel Specifications and/or Emergency Action

Review assessment results and consider specifications and/or requesting emergency action pending rebuilding plan modification.

Atlantic Mackerel Rebuilding Modifications Framework—Meeting #1

Review options for revised rebuilding plan and set range of alternatives and request additional options and analysis if needed.

Joint Council-SSC Meeting

Thursday, August 12, 2021

Business Session

Committee Reports; Executive Director's Report (approve revised NTAP charter); Organization Reports; and Liaison Reports.

Continuing and New Business

Although non-emergency issues not contained in this agenda may come before this group for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), those issues may not be the subject of formal action during these meetings. Actions will be restricted to those issues specifically identified in this notice and any issues arising after publication of

this notice that require emergency action under Section 305(c), provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kathy Collins at the Council Office, (302) 526–5253, at least 5 days prior to the meeting date.

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

Dated: July 12, 2021.

Tracey L. Thompson,

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

[FR Doc. 2021–15100 Filed 7–15–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB186]

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The Pacific Fishery Management Council's (Pacific Council) Coastal Pelagic Species Management Team will hold a public online meeting.

DATES: The online meeting will be held Monday, August 2, 2021, from 1 p.m. to 4 p.m. Pacific Daylight Time or until business for the day has been completed.

ADDRESSES: This meeting will be held online. Specific meeting information, including directions on how to join the meeting and system requirements will be provided in the meeting announcement on the Pacific Council's website (see *www.pcouncil.org*). You may send an email to Mr. Kris Kleinschmidt (*kris.kleinschmidt@noaa.gov*) or contact him at (503) 820–2412 for technical assistance.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220–1384.

FOR FURTHER INFORMATION CONTACT: Kerry Griffin, Staff Officer, Pacific Council; telephone: (503) 820–2409.

SUPPLEMENTARY INFORMATION: The primary purpose of this online meeting is to discuss the NMFS rule to implement provisions of the Magnuson-Stevens Fishery Conservation and Management Act (MSA) that require all Fishery Management Plans (FMPs) to establish a standardized bycatch reporting methodology (SBRM) to assess the amount and type of bycatch occurring in a fishery. Other matters such as administrative, ecosystem, and coastal pelagic species topics at upcoming Pacific Council meetings and the Coastal Pelagic Species Stock Assessment and Fishery Evaluation document may be addressed as well. An agenda will be available on the Pacific Council's website in advance of the meeting.

Although non-emergency issues not contained in the meeting agenda may be discussed, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this document and any issues arising after publication of this document that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Kris Kleinschmidt (*kris.kleinschmidt@noaa.gov;* (503) 820–2412) at least 10 days prior to the meeting date.

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

Dated: July 12, 2021.

Tracey L. Thompson,

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

[FR Doc. 2021–15098 Filed 7–15–21; 8:45 am]

BILLING CODE 3510–22–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Deletions from the procurement list.

SUMMARY: This action deletes product(s) and service(s) from the Procurement List that were furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

DATES: *Date added to and deleted from the Procurement List:* August 15, 2021.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S Clark Street, Suite 715, Arlington, Virginia 22202–4149.

FOR FURTHER INFORMATION CONTACT: Michael R. Jurkowski, Telephone: (703) 785–6404, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION:

Deletions

On 6/4/2021 and 6/11/2021, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice of proposed deletions from the Procurement List. This notice is published pursuant to 41 U.S.C. 8503(a)(2) and 41 CFR 51–2.3.

After consideration of the relevant matter presented, the Committee has determined that the product(s) and service(s) listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action may result in authorizing small entities to furnish the product(s) and service(s) to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the product(s) and service(s) deleted from the Procurement List.

End of Certification

Accordingly, the following product(s) and service(s) are deleted from the Procurement List:

Product(s)

NSN(s)—Product Name(s):
4240–00–NIB–0239—Self-Contained Breathing Apparatus Identifier Tags
4240–00–NIB–0276—Label, Custom, SBCA ID, Adhesive Back, Photoluminescent
Designated Source of Supply: Cincinnati Association for the Blind, Cincinnati, OH
Contracting Activity: DLA TROOP SUPPORT, PHILADELPHIA, PA

NSN(s)—Product Name(s): 7510–01–350–1810—Correction Tape, Refill Cartridge, White, 12m
Designated Source of Supply: West Texas Lighthouse for the Blind, San Angelo, TX
Contracting Activity: GSA/FAS ADMIN SVCS ACQUISITION BR(2, NEW YORK,

NY

NSN(s)—Product Name(s): 7510–01–350–1810—Correction Tape, Refill Cartridge, White, 12m

Designated Source of Supply: Industries for the Blind and Visually Impaired, Inc., West Allis, WI

Contracting Activity: GSA/FAS ADMIN SVCS ACQUISITION BR(2, NEW YORK, NY

NSN(s)—Product Name(s): 6850–00–973–9091—Penetrating Fluid

Designated Source of Supply: The Lighthouse for the Blind, St. Louis, MO

Contracting Activity: GSA/FSS GREATER SOUTHWEST ACQUISITI, FORT WORTH, TX

NSN(s)—Product Name(s): 8465–01–580–0967—M–4 magazine Side-by-Side Pouch, OCP

Designated Source of Supply: Chautauqua County Chapter, NYSARC, Jamestown, NY

Contracting Activity: DLA TROOP SUPPORT, PHILADELPHIA, PA

NSN(s)—Product Name(s): 8465–01–580–0967—M–4 magazine Side-by-Side Pouch, OCP

Designated Source of Supply: Southeastern Kentucky Rehabilitation Industries, Inc., Corbin, KY

Contracting Activity: DLA TROOP SUPPORT, PHILADELPHIA, PA

Service(s)

Service Type: CBRNE Kit Sustainment and Replenishment

Mandatory for: Naval Medical Logistics Command, Fort Detrick, MD, 693 Nelman Street, Fort Detrick, MD (Offsite: 10440 Trenton Avenue, St. Louis, MO)

Designated Source of Supply: The Lighthouse for the Blind, St. Louis, MO

Contracting Activity: DEPT OF THE NAVY, NAVAL MEDICAL LOGISTICS COMMAND

Michael R. Jurkowski,

Deputy Director, Business Operations.

[FR Doc. 2021–15140 Filed 7–15–21; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to and deletions from the procurement list.

SUMMARY: The Committee is proposing to add d service(s) to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes product(s) and service(s) previously furnished by such agencies.

DATES: *Comments must be received on or before:* August 15, 2021.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S Clark Street, Suite 715, Arlington, Virginia 22202–4149.

FOR FURTHER INFORMATION CONTACT: For further information or to submit comments contact: Michael R. Jurkowski, Telephone: (703) 785–6404, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 8503 (a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Additions

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice will be required to procure the product(s) and service(s) listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

The following service(s) are proposed for addition to the Procurement List for production by the nonprofit agencies listed:

Service(s)

Service Type: Furniture Design, Configuration and Installation

Mandatory for: U.S. Department of Commerce, U.S. Census Bureau, Suitland, MD and Bowie Computer Center, Bowie, MD

Designated Source of Supply: Industries for the Blind and Visually Impaired, Inc., West Allis, WI

Contracting Activity: U.S. Census Bureau, Dept of Commerce Census

Deletions

The following product(s) and service(s) are proposed for deletion from the Procurement List:

Product(s)

NSN(s)—Product Name(s):
8465–01–465–2124—MOLLE II Carrier Sleep System, Woodland Camouflage
8465–01–491–7508—MOLLE II Carrier Sleep System, Desert Camouflage

Designated Source of Supply: Alabama Industries for the Blind, Talladega, AL

Contracting Activity: DLA Troop Support, Philadelphia, PA

NSN(s)—Product Name(s):
7520–01–455–7237—Pen, Ballpoint, Stick Type, Recycled, Red Ink, Fine Point

Designated Source of Supply: West Texas Lighthouse for the Blind, San Angelo, TX

Contracting Activity: GSA/FAS Admin Svcs Acquisition BR(2, New York, NY

NSN(s)—Product Name(s):
4940–00–803–6444—Spray Kit, Self-Pressurized

Designated Source of Supply: The Lighthouse for the Blind, St. Louis, MO

Contracting Activity: DLA Land and Maritime, Columbus, OH

Service(s)

Service Type: Unclassified Technical Order & Decal Distribution

Mandatory for: Oklahoma City Air Logistics Center, Tinker AFB, OK

Designated Source of Supply: NewView Oklahoma, Inc., Oklahoma City, OK

Contracting Activity: Dept of the Air Force, FA7014 AFDW PK

Service Type: Classified Technical Order Distribution

Mandatory for: Tinker Air Force Base: Building 3, Door 57, Tinker AFB, OK

Designated Source of Supply: NewView Oklahoma, Inc., Oklahoma City, OK

Contracting Activity: Dept of the Air Force, FA7014 AFDW PK

Service Type: Peel and Stick Program Support

Mandatory for: U.S. Coast Guard-Wide, 1750 Claiborne Avenue, Shreveport, LA

Designated Source of Supply: Louisiana Association for the Blind, Shreveport, LA

Contracting Activity: U.S. Coast Guard, U.S. Coast Guard

Service Type: Storage/Distribution of Uniform Accessories

Mandatory for: Defense Supply Center Philadelphia, PA

Designated Source of Supply: Travis Association for the Blind, Austin, TX

Contracting Activity: Defense Logistics Agency, DLA Troop Support

Service Type: Provision of Customized Recognition and& Award Program

Designated Source of Supply: The Lighthouse for the Blind, Inc. (Seattle Lighthouse), Seattle, WA

Contracting Activity: General Services Administration, FPDS Agency Coordinator

Service Type: Management of State Department Mobile Security

Mandatory for: Department of State, Office of Mobile Security Deployments, Dunn Loring, VA, 2216 Gallows Road, Dunn Loring, VA

Designated Source of Supply: Virginia Industries for the Blind, Charlottesville, VA

Contracting Activity: STATE, Department of, Acquisitions—AQM Momentum

Service Type: Administrative/General Support Services

Mandatory for: U.S. Customs Service, Gulf CMC, 423 Canal Street, New Orleans, LA

Designated Source of Supply: The Lighthouse for the Blind in New Orleans, Inc., New Orleans, LA

Contracting Activity: Treasury, Department of the, Dept of Treas

Service Type: Administrative/General Support Services

Mandatory for: GSA, Southwest Supply Center: 819 Taylor Street, Fort Worth, TX

Designated Source of Supply: Dallas Lighthouse for the Blind, Inc., Dallas, TX

Contracting Activity: General Services Administration, FPDS Agency Coordinator

Service Type: Facilities Maintenance Services
Mandatory for: DISA, JITC, 3341 Strauss Avenue, Building 900, Indian Head, MD
Designated Source of Supply: Beacon Group, Inc., Tucson, AZ
Contracting Activity: Defense Information Systems Agency (DISA), IT Contracting Division—PL83

Service Type: Facilities Maintenance Services
Mandatory for: DISA, JITC, 4465 Indian Head Highway, Ely Building, Indian Head, MD
Designated Source of Supply: Beacon Group, Inc., Tucson, AZ
Contracting Activity: Defense Information Systems Agency (DISA), IT Contracting Division—PL83

Service Type: Facilities Maintenance Services
Mandatory for: DISA, JITC, 6910 Cooper Avenue, Fort Meade, MD
Designated Source of Supply: Beacon Group, Inc., Tucson, AZ
Contracting Activity: Defense Information Systems Agency (DISA), IT Contracting Division—PL83

Service Type: Facilities Maintenance Services
Mandatory for: DISA, JITC, 3341 Strauss Avenue, Building 900, Indian Head, MD
Designated Source of Supply: Didlake, Inc., Manassas, VA
Contracting Activity: Defense Information Systems Agency (DISA), DITCO–FT HUACHUCA PL65

Service Type: Facilities Maintenance Services
Mandatory for: DISA, JITC, 4465 Indian Head Highway, Ely Building, Indian Head, MD
Designated Source of Supply: Didlake, Inc., Manassas, VA
Contracting Activity: Defense Information Systems Agency (DISA), DITCO–FT HUACHUCA PL65

Service Type: Facilities Maintenance Services
Mandatory for: DISA, JITC, 6910 Cooper Avenue, Fort Meade, MD
Designated Source of Supply: Didlake, Inc., Manassas, VA
Contracting Activity: Defense Information Systems Agency (DISA), DITCO–FT HUACHUCA PL65

Service Type: Laundry Service
Mandatory for: U.S. Air Force, Wright-Patterson Air Force Base Medical Center, Wright-Patterson AFB, OH, 4881 Sugar Maple Drive, Wright-Patterson AFB, OH
Designated Source of Supply: Greene, Inc., Xenia, OH
Contracting Activity: Dept of the Air Force, FA8601 AFLCMC PZIO

Michael R. Jurkowski,

Deputy Director, Business Operations.

[FR Doc. 2021–15142 Filed 7–15–21; 8:45 am]

BILLING CODE 6353–01–P

COMMODITY FUTURES TRADING COMMISSION

Public Availability of Fiscal Year 2019 Service Contract Inventory

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability.

SUMMARY: The Commodity Futures Trading Commission (CFTC) is publishing this notice to advise the public of the availability of CFTC's Fiscal Year 2019 Service Contract Inventory.

FOR FURTHER INFORMATION CONTACT: Questions regarding the service contract inventory should be directed to Kathryn Rison, Contracting Officer, at 202–418–5419 or *krison@cftc.gov.*

SUPPLEMENTARY INFORMATION: In accordance with section 743 of division C of the Consolidated Appropriations Act of 2010, Public Law 111–117, 123 Stat. 3034, CFTC is publishing this notice to advise the public of the availability of the Fiscal Year (FY) 2019 Service Contract Inventory. CFTC has posted its inventory documents on the agency website at the following link: *https://www.cftc.gov/About/CFTCReports/index.htm.*

This inventory provides information on service contracts above the Simplified Acquisition Threshold ($150,000), as determined by the base and all options value, that were awarded in FY 2019. CFTC's service contract inventory data is included in the government-wide inventory, which can be filtered to display the CFTC-specific data. A link to the government-wide inventory is included in the posting on the CFTC website, or it can be accessed directly at *https://www.acquisition.gov/service-contract-inventory.*

The inventory documents posted on the CFTC website also include the CFTC FY 2018 Service Contract Inventory Analysis (dated February 20, 2020). This report provides information about the Product Service Codes that the CFTC analyzed from the 2018 inventory.

Dated: July 13, 2021.

Christopher Kirkpatrick,

Secretary of the Commission.

[FR Doc. 2021–15166 Filed 7–15–21; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2021–SCC–0105]

Agency Information Collection Activities; Comment Request; Fulbright-Hays Group Projects Abroad Long-Term Participant Survey

AGENCY: Office of Postsecondary Education (OPE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a new information collection.

DATES: Interested persons are invited to submit comments on or September 14, 2021.

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–2021–SCC–0105. 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 PRA Coordinator of the Strategic Collections and Clearance Governance and Strategy Division, U.S. Department of Education, 400 Maryland Ave. SW, LBJ, Room 6W208D, Washington, DC 20202–8240.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Cory Neal, 202–453–6137.

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: Fulbright-Hays Group Projects Abroad Long-Term Participant Survey.

OMB Control Number: 1840–NEW.

Type of Review: A new information collection.

Respondents/Affected Public: Individuals and Households.

Total Estimated Number of Annual Responses: 90.

Total Estimated Number of Annual Burden Hours: 23.

Abstract: Grants awarded under the Fulbright-Hays Group Projects Abroad (GPA) program provide opportunities for faculty, teachers, and undergraduate and graduate students to participate in research, language training, and curriculum development projects overseas in the fields of modern foreign languages and area studies. GPA Long-Term projects are designed to take advantage of advanced foreign language training opportunities present in the country of study that may not available in the United States. The purpose of this survey is to collect data demonstrating how GPA Long-Term alumni are utilizing their language training in their degree programs and careers in the time since they participated in the GPA program.

Dated: July 13, 2021.

Kate Mullan,

PRA Coordinator, Strategic Collections and Clearance, Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2021–15132 Filed 7–15–21; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2021–SCC–0099]

Agency Information Collection Activities; Comment Request; ESEA Fiscal Waiver Requests

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 requesting the Office of Management and Budget (OMB) to conduct an emergency review of a new information collection.

DATES: The Department requested emergency processing from OMB for this information collection request on July 1, 2021. As a result, the Department is providing the public with the opportunity to comment under the full comment period. Interested persons are invited to submit comments on or before September 14, 2021.

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–2021–SCC–0099. 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 Strategic Collections and Clearance Governance and Strategy Division, U.S. Department of Education, 400 Maryland Ave. SW, LBJ, Room 6W208D, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Todd Stephenson, 202–205–1645.

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: ESEA Fiscal Waiver Requests.

OMB Control Number: 1810–0760.

Type of Review: A new information collection.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 53.

Total Estimated Number of Annual Burden Hours: 53.

Abstract: Due to the continued extraordinary circumstances created by the COVID–19 pandemic and unprecedented obstacles students, educators, and schools are facing during the 2020–2021 school year, the U.S. Department of Education (the Department) is offering each State educational agency (SEA) the opportunity to request waivers that will afford additional fiscal flexibility for certain funds received under the Elementary and Secondary Education Act of 1965 (ESEA), pursuant to the Department's authority under section 8401 of the ESEA. Specifically, the Department is offering a waiver for an SEA to be able to approve a local educational agency (LEA) to carry over more than 15 percent of its fiscal year (FY) 2020 Title I, Part A funds (*i.e.,* the Title I, Part A funds that will become carryover funds on October 1, 2021), even if the LEA has received a waiver from its SEA to exceed this limitation for its FY 2018 or FY 2019 Title I, Part A funds. Second, we are also offering flexibility to each SEA to be able to

extend for itself and its subgrantees the period of availability of FY 2019 funds for programs included in the State's consolidated State plan to allow additional time to obligate those funds.

As the end of the current school year approaches and districts and schools continue to plan for the 2021–2022 school year, knowing whether their SEA is granted the invited waivers is essential to informing their planning because it provides more certainty about the availability of Federal funds for ESEA programs. Providing a streamlined process for SEA waiver requests will speed the process for both the SEA and the Department and help ensure State and local staff are able to maintain focus on the pressing needs of students. Any additional delay will have a negative impact on schools and students. In order to reduce the burden on States, the Department has created an optional template for States to collect the information required under ESEA section 8401 to request waivers of certain fiscal requirements. The optional template requests only information that is required under ESEA section 8401. The Department obtained OMB approval through emergency processing, and is now offering the public an opportunity to comment on this information collection.

Dated: July 7, 2021.

Kate Mullan,

PRA Coordinator, Strategic Collections and Clearance, Governance and Strategy Division, Office of Chief Data Officer.

[FR Doc. 2021–14732 Filed 7–15–21; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER21–2393–000.

Applicants: Arizona Public Service Company.

Description: Compliance filing: Spot Market Sales above Soft Price Cap during August 2020 Extreme Heat Event to be effective N/A.

Filed Date: 7/9/21.

Accession Number: 20210709–5140.

Comments Due: 5 p.m. ET 7/30/21.

Docket Numbers: ER21–2394–000.

Applicants: Tucson Electric Power Company.

Description: § 205(d) Rate Filing: Rate Schedule No. 326 Gila Third Amended Ownership Agreement to be effective 7/13/2021.

Filed Date: 7/12/21.

Accession Number: 20210712–5005.

Comments Due: 5 p.m. ET 8/2/21.

Docket Numbers: ER21–2395–000.

Applicants: Viridity Energy Solutions Inc.

Description: Petition for Limited Waiver of Viridity Energy Solutions, Inc.

Filed Date: 7/9/21.

Accession Number: 20210709–5159.

Comments Due: 5 p.m. ET 7/16/21.

Docket Numbers: ER21–2396–000.

Applicants: Guzman Energy, LLC.

Description: Compliance filing: Cost justification filing to be effective N/A.

Filed Date: 7/12/21.

Accession Number: 20210712–5073.

Comments Due: 5 p.m. ET 8/2/21.

Docket Numbers: ER21–2397–000.

Applicants: Southwestern Public Service Company.

Description: § 205(d) Rate Filing: 2021–07–12 SPS–TTC-Utility Reloc Agrmt–729–0.0.0 to be effective 7/13/2021.

Filed Date: 7/12/21.

Accession Number: 20210712–5102.

Comments Due: 5 p.m. ET 8/2/21.

Docket Numbers: ER21–2398–000.

Applicants: ALLETE, Inc.

Description: § 205(d) Rate Filing: Certificate of Concurrence (Bemidji OMA) to be effective 4/24/2013.

Filed Date: 7/12/21.

Accession Number: 20210712–5113.

Comments Due: 5 p.m. ET 8/2/21.

Docket Numbers: ER21–2399–000.

Applicants: ALLETE, Inc.

Description: § 205(d) Rate Filing: Certificate of Concurrence (Bemidji TCEA) to be effective 4/24/2013.

Filed Date: 7/12/21.

Accession Number: 20210712–5116.

Comments Due: 5 p.m. ET 8/2/21.

Take notice that the Commission received the following PURPA 210(m)(3) filings:

Docket Numbers: QM21–25–000.

Applicants: Buckeye Power, Inc.

Description: Application of Buckeye Power, Inc. to Terminate Its Mandatory Purchase Obligation under the Public Utility Regulatory Policies Act of 1978.

Filed Date: 6/16/21.

Accession Number: 20210616–5128.

Comments Due: 5 p.m. ET 7/14/21.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: July 12, 2021.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2021–15155 Filed 7–15–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Docket Numbers: RP21–956–000.

Applicants: Texas Gas Transmission, LLC.

Description: Compliance filing Pro Forma Tariff Records for GMS Go Live to be effective 12/31/9998.

Filed Date: 7/6/21.

Accession Number: 20210706–5045.

Comments Due: 5 p.m. ET 7/19/21.

Docket Numbers: RP21–957–000.

Applicants: Northern Natural Gas Company.

Description: Compliance filing 202107 May 2021 Missed Deadline Imbalance to Storage.

Filed Date: 7/6/21.

Accession Number: 20210706–5052.

Comments Due: 5 p.m. ET 7/19/21.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings

can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: July 8, 2021.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2021–15150 Filed 7–15–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Docket Numbers: RP21–961–000.

Applicants: Transcontinental Gas Pipe Line Company, LLC.

Description: § 4(d) Rate Filing: GT&C Section 50—PTR Replacement on ICTS to be effective 8/8/2021.

Filed Date: 7/8/21.

Accession Number: 20210708–5060.

Comments Due: 5 p.m. ET 7/20/21.

Docket Numbers: RP21–962–000.

Applicants: Eastern Gas Transmission and Storage, Inc.

Description: § 4(d) Rate Filing: EGTS—July 8, 2021 Administrative Changes to be effective 8/9/2021.

Filed Date: 7/8/21.

Accession Number: 20210708–5062.

Comments Due: 5 p.m. ET 7/20/21.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: July 12, 2021.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2021–15156 Filed 7–15–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC21–103–000.

Applicants: Rainbow Energy Center, LLC, Nexus Line, LLC.

Description: Application for Authorization Under Section 203 of the Federal Power Act of Nexus Line, LLC, et al.

Filed Date: 7/8/21.

Accession Number: 20210708–5071.

Comments Due: 5 p.m. ET 7/29/21.

Take notice that the Commission received the following electric rate filings:.

Docket Numbers: ER10–1910–021; ER10–1911–021.

Applicants: Duquesne Light Company, Duquesne Power, LLC.

Description: Notice of Change in Status of Duquesne Light Company, et al.

Filed Date: 7/7/21.

Accession Number: 20210707–5129.

Comments Due: 5 p.m. ET 7/28/21.

Docket Numbers: ER20–2719–001.

Applicants: Ringer Hill Wind, LLC.

Description: Report Filing: Refund Report to be effective N/A.

Filed Date: 7/8/21.

Accession Number: 20210708–5044.

Comments Due: 5 p.m. ET 7/29/21.

Docket Numbers: ER21–1647–001.

Applicants: Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., Orange and Rockland Utilities, Inc., Niagara Mohawk Power Corporation, Rochester Gas and Electric Corporation, New York State Electric & Gas Corporation, New York Independent System Operator, Inc.

Description: Tariff Amendment: Deficiency response on behalf of NYTOs re: TO Funding of Tra to be effective 9/7/2021.

Filed Date: 7/8/21.

Accession Number: 20210708–5069.

Comments Due: 5 p.m. ET 7/29/21.

Docket Numbers: ER21–2374–000.

Applicants: ALLETE, Inc.

Description: § 205(d) Rate Filing: Certificate of Concurrence (Fargo CMA) to be effective 4/24/2013.

Filed Date: 7/8/21.

Accession Number: 20210708–5038.

Comments Due: 5 p.m. ET 7/29/21.

Docket Numbers: ER21–2375–000.

Applicants: ALLETE, Inc.

Description: § 205(d) Rate Filing: Certificate of Concurrence (Fargo OMA) to be effective 4/24/2013.

Filed Date: 7/8/21.

Accession Number: 20210708–5040.

Comments Due: 5 p.m. ET 7/29/21.

Docket Numbers: ER21–2376–000.

Applicants: ALLETE, Inc.

Description: § 205(d) Rate Filing: Certificate of Concurrence (Fargo TCEA) to be effective 4/24/2013.

Filed Date: 7/8/21.

Accession Number: 20210708–5043.

Comments Due: 5 p.m. ET 7/29/21.

Docket Numbers: ER21–2377–000.

Applicants: Southern California Edison Company.

Description: § 205(d) Rate Filing: First Amendment LGIA Athos Power Plant Project SA No. 227 TOT849 to be effective 7/9/2021.

Filed Date: 7/8/21.

Accession Number: 20210708–5061.

Comments Due: 5 p.m. ET 7/29/21.

Docket Numbers: ER21–2378–000.

Applicants: National Grid Generation LLC.

Description: § 205(d) Rate Filing: Annual Reset of Pension and OPEB Expenses to be effective 1/1/2021.

Filed Date: 7/8/21.

Accession Number: 20210708–5086.

Comments Due: 5 p.m. ET 7/29/21.

Docket Numbers: ER21–2379–000.

Applicants: Rainbow Energy Center, LLC.

Description: Baseline eTariff Filing: Rainbow Energy Center, LLC MBR Application Filing to be effective 8/31/2021.

Filed Date: 7/8/21.

Accession Number: 20210708–5101.

Comments Due: 5 p.m. ET 7/29/21.

Docket Numbers: ER21–2380–000.

Applicants: EDF Trading North America, LLC.

Description: Compliance filing: Compliance Justification filing 2021 to be effective N/A.

Filed Date: 7/8/21.

Accession Number: 20210708–5119.

Comments Due: 5 p.m. ET 7/29/21.

Docket Numbers: ER21–2381–000.

Applicants: Wisconsin Electric Power Company.

Description: § 205(d) Rate Filing: Formula Rate Update Filing for 2020 Rate Year to be effective 9/7/2021.

Filed Date: 7/8/21.

Accession Number: 20210708–5121.

Comments Due: 5 p.m. ET 7/29/21.

Take notice that the Commission received the following electric reliability filings.

Docket Numbers: RD21–5–000.

Applicants: North American Electric Reliability Corporation.

Description: Petition of the North American Electric Reliability Corporation For Approval of Proposed

Reliability Standards EOP–011–2, IRO–010–4, and TOP–003–5 and Request for Expedited Action.

Filed Date: 6/17/21.

Accession Number: 20210617–5165.

Comments Due: 5 p.m. ET 7/29/21.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: July 8, 2021.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2021–15147 Filed 7–15–21; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–9057–4]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information 202–564–5632 or *https://www.epa.gov/nepa.*

Weekly receipt of Environmental Impact Statements (EIS)

Filed July 2, 2021 10 a.m. EST Through July 12, 2021 10 a.m. EST

Pursuant to 40 CFR 1506.9.

Notice

Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: *https://cdxnodengn.epa.gov/cdx-enepa-public/action/eis/search.*

EIS No. 20210095, Draft, FHWA, NY, Interstate 81 Viaduct Project, Comment Period Ends: 09/14/2021, Contact: Richard J. Marquis 518–431–4127.

EIS No. 20210096, Final, AZDOT, FHWA, AZ, Tier 1 Environmental Impact Statement and Preliminary Section 4(f) Evaluation for Interstate 11 Corridor between Nogales and Wickenburg, Arizona, Review Period Ends: 08/16/2021, Contact: Alan Hansen 602–382–8964.

EIS No. 20210097, Draft, FERC, AZ, North Baja Xpress Project, Comment Period Ends: 08/30/2021, Contact: Office of External Affairs 866–208–3372.

EIS No. 20210098, Draft, VA, PRO, Draft Programmatic Environmental Impact Statement for Veterans Affairs Housing Loan Program, Comment Period Ends: 08/30/2021, Contact: Elysium Drumm 202–632–8862.

Dated: July 12, 2021.

Cindy S. Barger,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2021–15134 Filed 7–15–21; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0149; FR ID 38144]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995 (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written PRA comments should be submitted on or before September 14, 2021. 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, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele, (202) 418–2991.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0149.

Title: Part 63, Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment, WC Docket No. 17–84, FCC 18–74.

Form Number(s): N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for profit.

Number of Respondents and Responses: 80 respondents; 88 responses.

Estimated Time per Response: 6–62 hours per response.

Frequency of Response: One-time reporting requirement and third-party disclosure requirements.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this collection of information is contained in 47 U.S.C. 214 and 402 of the Communications Act of 1934, as amended.

Total Annual Burden: 1,096 hours.

Total Annual Cost: $27,900.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: Information filed in section 214 applications has generally been nonconfidential. Requests from parties seeking confidential treatment are considered by Commission staff pursuant to 47 CFR 0.459 of the Commission's rules.

Needs and Uses: The Commission is seeking the Office of Management and Budget (OMB) approval for an extension of a currently approved collection to OMB. The Commission will submit this information collection to OMB after this 60-day comment period. Section 214 of the Communications Act of 1934, as amended, requires that a carrier must first obtain FCC authorization either to

(1) construct, operate, or engage in transmission over a line of communications; or (2) discontinue, reduce or impair service over a line of communications. Part 63 of Title 47 of the Code of Federal Regulations (CFR) implements Section 214. Part 63 also implements provisions of the Cable Communications Policy Act of 1984 pertaining to video which was approved under this OMB Control Number 3060–0149. In 2009, the Commission modified Part 63 to extend to providers of interconnected Voice of internet Protocol (VoIP) service the discontinuance obligations that apply to domestic non-dominant telecommunications carriers under Section 214 of the Communications Act of 1934, as amended. In 2014, the Commission adopted improved administrative filing procedures for domestic transfers of control, domestic discontinuances and notices of network changes, and among other adjustments, modified Part 63 to require electronic filing for applications for authorization to discontinue, reduce, or impair service under section 214(a) of the Act.

In July 2016, the Commission concluded that applicants seeking to discontinue a legacy time division multiplexing (TDM)-based voice service as part of a transition to a new technology, whether internet Protocol (IP), wireless, or another type (technology transition discontinuance application) must demonstrate that an adequate replacement for the legacy service exists in order to be eligible for streamlined treatment and revised part 63 accordingly. The Commission concluded that an applicant for a technology transition discontinuance may demonstrate that a service is an adequate replacement for a legacy voice service by certifying or showing that one or more replacement service(s) offers all of the following: (i) Substantially similar levels of network infrastructure and service quality as the applicant service; (ii) compliance with existing federal and/or industry standards required to ensure that critical applications such as 911, network security, and applications for individuals with disabilities remain available; and (iii) interoperability and compatibility with an enumerated list of applications and functionalities determined to be key to consumers and competitors (the ''adequate replacement test''). In June 2018, the Commission further modified the rules applicable to section 214(a) discontinuance applications. First, all carriers, whether dominant or non-dominant, that seek approval to grandfather data services below speeds of 25 Mbps download speed and 3 Mbps upload speed are now subject to a uniform reduced public comment period of 10 days and an automatic grant period of 25 days. Second, all carriers, whether dominant or nondominant, seeking authorization to discontinue data services below speeds of 25 Mbps download speed and 3 Mbps upload speed that have previously been grandfathered for a period of at least 180 days are subject to a uniform reduced public comment period of 10 days and an automatic grant period of 31 days, provided they submit a statement as part of their discontinuance application that they have received Commission authority to grandfather the services at issue at least 180 days prior to the filing of the discontinuance application. This statement must reference the file number of the prior Commission authorization to grandfather the services the carrier now seeks to permanently discontinue. Third, carriers are no longer required to file an application to discontinue, reduce, or impair any service for which it has had no customers and no request for service for at least a 30-day period immediately preceding the discontinuance. Fourth, all carriers, whether dominant or nondominant, that seek approval to discontinue legacy voice service can obtain further streamlined processing with a public comment period of 15 days and an automatic grant period of 31 days, provided (1) they offer a standalone interconnected VoIP service throughout the service area, and (2) at least one alternative stand-alone, facilities-based voice service is available from an unaffiliated provider throughout the affected service area (the ''alternative options test''). Finally, all carriers, whether dominant or nondominant, that seek approval to grandfather legacy voice service are now subject to a uniform reduced public comment period of 10 days and an automatic grant period of 25 days.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2021–15183 Filed 7–15–21; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Sunshine Act Meeting

TIME AND DATE: 10:00 a.m. on Tuesday, July 20, 2021.

PLACE: The meeting is open to the public. Out of an abundance of caution related to current and potential coronavirus developments, the public's means to observe this Board meeting will be via a Webcast live on the internet and subsequently made available on-demand approximately one week after the event. Visit *http://fdic.windrosemedia.com* to view the live event. Visit *http://fdic.windrosemedia.com/index.php?category=FDIC+Board+Meetings* after the meeting. If you need any technical assistance, please visit our Video Help page at: *https://www.fdic.gov/video.html.*

Observers requiring auxiliary aids (*e.g.,* sign language interpretation) for this meeting should call 703–562–2404 (Voice) or 703–649–4354 (Video Phone) to make necessary arrangements.

STATUS: Open.

MATTERS TO BE CONSIDERED: Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session to consider the following matters:

Summary Agenda

No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of Minutes of a Board of Directors' Meeting Previously Distributed.

Memorandum and resolution re: Notice of Proposed Rulemaking on Revisions to Standardized Approach for Calculating the Exposure Amount of Derivative Contracts.

Discussion Agenda

Memorandum and resolution re: Notice of Proposed Rulemaking Regarding Simplification of Deposit Insurance Rules for Trust and Mortgage Servicing Accounts.

CONTACT PERSON FOR MORE INFORMATION: Requests for further information concerning the meeting may be directed to Debra A. Decker, Deputy Executive Secretary of the Corporation, at 202–898–8748.

Dated at Washington, DC, on July 13, 2021.

Federal Deposit Insurance Corporation.

James P. Sheesley,

Assistant Executive Secretary.

[FR Doc. 2021–15203 Filed 7–14–21; 11:15 am]

BILLING CODE 6714–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (Act) (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the applications are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the standards enumerated in paragraph 7 of the Act.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551–0001, not later than August 2, 2021.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *The Thomas E. Carter, Sr. Trust and the Allison M. Carter Trust, Thomas E. Carter, Sr., individually and as co-trustee of both trusts, with Allison M. Carter, individually and as co-trustee of both trusts; Gwen M. Carter; Mack N. Carter; Samuel K. Carter; Sarah J. Carter; Thomas E. Carter, Jr.; and certain minor children in the Carter family, all of Park Ridge, Illinois; Mary C. Carter Seidel, Apex, North Carolina; Louis J. Carter, Paul P. Carter, and Geoffrey Yerke, all of Chicago, Illinois; and Joseph G. Carter, Arlington Heights, Illinois;* as the Carter Family Control Group, a group acting in concert, to retain voting shares of Community Bank Corp., and thereby indirectly retain voting shares of Park Ridge Community Bank, both of Park Ridge, Illinois.

Board of Governors of the Federal Reserve System, July 13, 2021.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2021–15157 Filed 7–15–21; 8:45 am]

BILLING CODE 6210–01–P

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0205; Docket No. 2021–0001; Sequence No. 9]

General Services Administration Acquisition Regulation (GSAR); Information Collection; Environmental Conservation, Occupational Safety, and Drug-Free Workplace

AGENCY: Office of Acquisition Policy, General Services Administration (GSA).

ACTION: Notice of request for comments regarding the extension of a previously existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the General Services Administration will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement regarding Environmental Conservation, Occupational Safety, and Drug-Free Workplace.

DATES: *Submit comments on or before:* September 14, 2021.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to *http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching the OMB control number. Select the link ''Comment Now'' that corresponds with ''Information Collection 3090–0205, Environmental Conservation, Occupational Safety, and Drug-Free Workplace''. Follow the instructions provided on the screen. Please include your name, company name (if any), and ''Information Collection 3090–0205, Environmental Conservation, Occupational Safety, and Drug-Free Workplace'' on your attached document.

If your comment cannot be submitted using *regulations.gov,* call or email the points of contact in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

Instructions: Please submit comments only and cite Information Collection 3090–0205, Environmental Conservation, Occupational Safety, and Drug-Free Workplace, in all correspondence related to this collection. Comments received generally will be posted without change to *regulations.gov,* including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check *regulations.gov,* approximately two-to-three business days after submission to verify posting.

FOR FURTHER INFORMATION CONTACT: Ms. Adina Torberntsson, Procurement Analyst, GSA Acquisition Policy Division, via telephone at 303–236–2677, or via email at *adina.torberntsson@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

The Federal Hazardous Substance Act and Hazardous Material Transportation Act prescribe standards for packaging of hazardous substances. To meet the requirements of the Acts, the General Services Administration Regulation prescribes provision 552.223–72, Hazardous Material Information, to be inserted in solicitations and contracts that provides for delivery of hazardous materials on a Free On Board (FOB) origin basis.

This information collection will be accomplished by means of the provision which requires the contractor to identify for each National Stock Number (NSN), the DOT Shipping Name, Department of Transportation (DOT) Hazards Class, and whether the item requires a DOT label. Contracting Officers and technical personnel use the information to monitor and ensure contract requirements based on law and regulation.

Properly identified and labeled items of hazardous material allows for appropriate handling of such items throughout GSA's supply chain system. The information is used by GSA, stored in an NSN database and provided to GSA customers. Non-Collection and/or a less frequently conducted collection of the information resulting from GSAR provision 552.223–72 would prevent the Government from being properly notified. Government activities may be hindered from apprising their employees of; (1) All hazards to which they may be exposed; (2) Relative symptoms and appropriate emergency treatment; and (3) Proper conditions and precautions for safe use and exposure.

B. Annual Reporting Burden

Respondents: 563.
Responses per Respondent: 3.
Total Responses: 1,689.
Hours per Response: .67.
Total Burden Hours: 1,132.

C. Public Comments

Public comments are particularly invited on: Whether this collection of information is necessary, whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

Obtaining copies of proposals: Requesters may obtain a copy of the information collection documents from the GSA Regulatory Secretariat Division, by calling 202–501–4755 or emailing *GSARegSec@gsa.gov.* Please cite OMB Control No. 3090–0205, Environmental Conservation, Occupational Safety, and Drug-Free Workplace, in all correspondence.

Jeffrey A. Koses,

Senior Procurement Executive, Office of Acquisition Policy, Office of Government-wide Policy.

[FR Doc. 2021–15138 Filed 7–15–21; 8:45 am]

BILLING CODE 6820–61–P

GENERAL SERVICES ADMINISTRATION

[Notice–MV–2021–01; Docket No. 2021–0002; Sequence 16]

Public Availability of General Services Administration Fiscal Year 2019 Service Contract Inventory

AGENCY: Office of Governmentwide Policy, General Services Administration, (GSA).

ACTION: Notice of public availability of GSA Fiscal Year 2019 Service Contract Inventory.

SUMMARY: In accordance with The Fiscal Year (FY) 2010 Consolidated Appropriations Act, GSA is publishing this notice to advise the public of the availability of the FY 2019 Service Contract Inventory.

DATES: *Applicable:* July 16, 2021.

FOR FURTHER INFORMATION CONTACT: Questions regarding the Service Contract Inventory should be directed to Mr. Jeffrey Pitts in the Office of Acquisition Policy at 202–501–0712 or *jeffrey.pitts@gsa.gov.*

SUPPLEMENTARY INFORMATION: In accordance with section 743 of Division C of the FY 2010 Consolidated Appropriations Act (Pub. L. 111–117), GSA is publishing this notice to advise the public of the availability of the Fiscal Year 2019 Service Contract Inventory. This inventory is available at *https://www.acquisition.gov/service-contract-inventory.* The inventory provides information on governmentwide service contract actions over $25,000 that were made in FY 2019. The service contract inventory information located on *acquisition.gov* can be filtered by agency and component to show how contracted resources are distributed throughout any agency. The inventory has been developed in accordance with the guidance issued on December 19, 2011, by the Office of Management and Budget's Office of Federal Procurement Policy (OFPP). The OFPP's guidance is available at: *https://obamawhitehouse.archives.gov/omb/procurement-service-contract-inventories.* GSA has posted its FY 2018 inventory analyses and its planned analyses of FY 2019 actions at the following location: *http://www.gsa.gov/gsasci.*

Jeffrey Koses,

Senior Procurement Executive, Office of Acquisition Policy, Office of Governmentwide Policy.

[FR Doc. 2021–15102 Filed 7–15–21; 8:45 am]

BILLING CODE 6820–61–P

GULF COAST ECOSYSTEM RESTORATION COUNCIL

[Docket No. 107122021–1111–02]

Notice of Proposed Subaward Under a Council-Selected Restoration Component Award

AGENCY: Gulf Coast Ecosystem Restoration Council.

ACTION: Notice.

SUMMARY: The Gulf Coast Ecosystem Restoration Council (RESTORE Council) publishes notice of a proposed subaward from the National Oceanic and Atmospheric Administration (NOAA) Restoration Center of the U.S. Department of Commerce to The Nature Conservancy (TNC), a non-profit organization, to conduct activities approved in Funded Priorities List 3b.

FOR FURTHER INFORMATION CONTACT: Please send questions by email to *joshua.easton@restorethegulf.gov.*

SUPPLEMENTARY INFORMATION: Section 1321(t)(2)(E)(ii)(III) of the *Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies Act of 2012* (33 U.S.C. 1321(t)) (RESTORE Act) and Treasury's implementing regulation at 31 CFR 34.401(b), require that, for purposes of awards made under the Council-Selected Restoration Component, a State or Federal award recipient may make a grant or subaward to or enter into a cooperative agreement with a nongovernmental entity that equals or exceeds ten (10) percent of the total amount of the award provided to the State or Federal award recipient only if certain notice requirements are met. Specifically, at least 30 days before the State or Federal award recipient enters into such an agreement, the Council must publish in the **Federal Register** and deliver to specified Congressional Committees the name of the recipient and subrecipient; a brief description of the activity, including its purpose; and the amount of the award. This notice accomplishes the **Federal Register** requirement.

Description of Proposed Action

As specified in Funded Priorities List 3b, which is available on the Council's website at *https://www.restorethegulf.gov/funded-priorities-list-3b,* RESTORE Act funds in the amount of $11,971,250 to implement the Gulf of Mexico Coast Conservation Corps (GulfCorps) Program will be provided through an interagency agreement (IAA) with the National Oceanic and Atmospheric Administration (NOAA) Restoration Center of the U.S. Department of Commerce. The GulfCorps program supports the primary RESTORE Comprehensive Plan goal of restoring and conserving habitat. Under the GulfCorps Interagency Agreement, the NOAA Restoration Center will provide a subaward in the amount of $11,321,250 to The Nature Conservancy (TNC), a non-profit organization.

Through the TNC subaward, GulfCorps organizations in each Gulf state will recruit, train, employ and help to inspire hundreds of young adults to produce habitat restoration benefits and become the Gulf of Mexico's future restoration workforce. GulfCorps will continue to collaborate with State, Federal and local agencies, and non-profit organizations to manage natural resources and implement restoration, conservation and resilience projects.

Mark D. Bisgeier,

General Counsel.

[FR Doc. 2021–15109 Filed 7–15–21; 8:45 am]

BILLING CODE 6560–58–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Docket No. CDC–2018–0057]

Final Environmental Impact Statement; Acquisition of Site for Development of a Replacement Underground Safety Research Program Facility for the Centers for Disease Control and Prevention/National Institute for Occupational Safety and Health (CDC/NIOSH) in Mace, West Virginia; Availability and Public Information Meeting

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of availability.

SUMMARY: The Centers for Disease Control and Prevention (CDC) within the Department of Health and Human Services (HHS), in cooperation with the General Services Administration (GSA), announces the availability of a Final Environmental Impact Statement (FEIS) for the proposed acquisition of a site in Mace, West Virginia, and the development of this site into a replacement for the National Institute for Occupational Safety and Health (NIOSH) Underground Safety Research Program facility (Proposed Action). The proposed acquisition and development would replace the former Lake Lynn Experimental Mine in Fayette County, Pennsylvania and would support research programs focused on miner health and safety issues. The site being considered for acquisition and development includes 461.35 acres located off U.S. Route 219 in Randolph and Pocahontas Counties near Mace, West Virginia (Site). The Final EIS and this notice are published pursuant to the requirements of the National Environmental Policy Act of 1969 (NEPA) as implemented by the Council on Environmental Quality (CEQ) Regulations (40 CFR parts 1500–1508). In parallel with the NEPA process, CDC also completed consultation with the West Virginia State Historic Preservation Office under Section 106 of the National Historic Preservation Act to evaluate the potential effects, if any, of the Proposed Action on historic properties.

DATES:

Public Information Meeting: The public meeting will be held on August 5, 2021 from 6:00 to 7:00 p.m. The meeting will be held via Zoom. See the **SUPPLEMENTARY INFORMATION** for more information.

If you have any questions or comments that you would like to see addressed during the virtual information meeting, please email those to *cdc-macewv-eis@cdc.gov* no later than July 26, 2021.

Deadline for Requests for Special Accommodations: Persons wishing to participate in the public meeting who need special accommodations should contact Sam Tarr at 770–488–8170 by 5:00 p.m. Eastern Time, July 26, 2021.

CDC will issue a final decision on the Proposed Action on or after August 16, 2021.

ADDRESSES:

Copies of the Final EIS can be obtained at:

- *Federal eRulemaking Portal: http://www.regulations.gov* (reference Docket No. CDC–2018–0057)
- Linwood Community Library, 72 Snowshoe Drive, Slatyfork, West Virginia 26291.
- Elkins Randolph County Public Library, 416 Davis Ave, Elkins, WV 26241.
- By written request (electronic copies only) to: *cdc-macewv-eis@cdc.gov.*

An electronic copy of the public information meeting materials can be obtained after 6:00 p.m., July 30, 2021 at:

- *https://gsa.gov/about-us/regions/welcome-to-the-midatlantic-region-3/buildings-and-facilities/west-virginia/cdc-niosh-mine-site-selection-acquisition-environmental-impact-statement.*

FOR FURTHER INFORMATION CONTACT: Sam Tarr, Office of Safety, Security, and Asset Management (OSSAM), Centers for Disease Control and Prevention, 1600 Clifton Road NE, H20–4, Atlanta, Georgia 30329–4027, phone: (770) 488–8170, or email: *cdc-macewv-eis@cdc.gov.*

SUPPLEMENTARY INFORMATION:

Public Information Meeting:

Public participation is an essential part of the NEPA process. Therefore, although CDC has fulfilled the public meeting requirements under NEPA, due to the changes in the Final EIS that have resulted from stakeholder input and to ensure that the stakeholders have the opportunity to learn of the changes and mitigation measures, CDC is holding an information meeting to discuss the key changes in the Final EIS. The information meeting will be virtual due to COVID–19 restrictions. The virtual information meeting will be held on:

August 5, 2021 from 6:00 to 7:00 p.m. at Zoom Webinar: *https://us02web.zoom.us/j/83943045020* Or Telephone: +1 312 626 6799, Webinar ID: 839 4304 5020.

CDC has taken into consideration the limited internet availability in the project vicinity. The PowerPoint presentation will be available for download in advance of the meeting here: [*https://gsa.gov/about-us/regions/welcome-to-the-midatlantic-region-3/buildings-and-facilities/west-virginia/cdc-niosh-mine-site-selection-acquisition-environmental-impact-statement*]. Those with limited internet connectivity can download the presentation in advance and then call into the meeting using the Zoom phone number. Electronic materials will be available for download by close of business on July 30, 2021.

Should you need a hardcopy of the PowerPoint presentation, please email your request, including name and address, to *cdc-macewv-eis@cdc.gov* no later than July 26, 2021. Representatives of CDC and GSA will not be taking questions during the meeting and request questions be submitted in advance of the meeting so the agencies can incorporate those questions into the presentation so that all participants receive the same hardcopy information. If you have any questions or comments that you would like to see addressed during the virtual information meeting, please email those to *cdc-macewv-eis@cdc.gov* no later than July 26, 2021.

Background: CDC is dedicated to protecting health and promoting quality of life through the prevention and control of disease, injury, and disability. NIOSH, one of CDC's Centers, Institute, and Offices, was established by the Occupational Safety and Health Act of 1970. NIOSH plans, directs, and coordinates a national program to develop and establish recommended occupational safety and health standards, conduct research and training, provide technical assistance, and perform related activities to ensure safe and healthful working conditions for every working person in the United States.

In 1997, when the mine safety and health function was transferred from the Bureau of Mines (BOM) to NIOSH, NIOSH took over the lease for a facility referred to as the Lake Lynn Experimental Mine (LLEM). BOM had leased the LLEM facility since 1982. The LLEM is located 60 miles south of Pittsburgh, Pennsylvania. The LLEM and its aboveground fire testing facility were primarily used for studies and research on mine explosions, mine seals, mine rescue, ventilation, diesel exhaust, new health and safety technologies, ground control, and fire suppression. After December 2012, the

property was no longer available for long-term leasing. CDC attempted to purchase the underlying property on which LLEM is located, but NIOSH vacated the LLEM after market-based purchase offers were rejected by the property owners.

In 2013, CDC completed a Project Development Study to outline a design solution to replace the LLEM. The study presented the facility and site requirements and design concepts for the replacement facilities. In 2016, to identify potentially available locations that could accommodate the space requirements defined in the 2013 study, GSA issued (on behalf of CDC) two separate Requests for Expressions of Interest (REOI) for a site, developed or undeveloped, that could be used for the new underground safety research facility. The first REOI, advertised in June 2016, contained a limited delineated area within a 200-mile radius of the LLEM. The REOI set forth criteria that would be used to evaluate the suitability of the submitted sites. One expression of interest that had the potential to meet the minimum criteria was received. After further evaluation, however, the site was found to be non-viable.

The second REOI was issued in October 2016 and expanded the delineated area to the entire contiguous United States. Three expressions of interest were received for sites in Kentucky, Missouri, and West Virginia. The Kentucky site did not meet the minimum criteria, and the Missouri site expression of interest did not contain all necessary information to evaluate. The offeror of the Missouri site did not respond to subsequent GSA inquiries.

The potential site in West Virginia met the minimum criteria and was determined to be a viable site. The site is located near Mace, West Virginia, and straddles the Randolph and Pocahontas County lines.

In accordance with NEPA, as implemented by the CEQ regulations (40 CFR parts 1500–1508), with GSA as a cooperating agency, CDC prepared a Draft EIS for the proposed acquisition of the Site and construction of a new underground safety research facility on the Site. Under NEPA, federal agencies are required to evaluate the environmental effects of their proposed actions and a range of reasonable alternatives to the proposed action before making a decision. On February 14, 2019, in accordance with NEPA, CDC published a Notice of Availability announcing that a Draft EIS for the proposed acquisition and development had been prepared. The Draft EIS evaluated two alternatives: The Proposed Action Alternative (acquisition of the Site and construction of a new underground safety research facility) and the No Action Alternative. No other alternatives were considered because only one qualifying site was identified through the site selection process discussed above.

Publication of the Draft EIS notice initiated a 51-day review period, which ended on April 5, 2019. During this period, CDC received comments from government agencies, a Native American tribe, and the public. These comments pertained to the proposed action in general, including the purpose and need; water quality/groundwater impacts; traffic impacts; tourism impacts; noise and vibration impacts; viewshed impacts; and wildlife impacts.

All comments were considered when preparing the Final EIS and responses to the comments are provided in the Final EIS. The Final EIS identifies the Proposed Action Alternative as CDC's Preferred Alternative.

CDC will make a decision on whether to proceed with the Proposed Action on or after August 16, 2021. At that time, CDC will issue a Record of Decision documenting and explaining its decision based on the Final EIS.

Dated: July 13, 2021.

Sandra Cashman,

Executive Secretary, Centers for Disease Control and Prevention.

[FR Doc. 2021–15139 Filed 7–15–21; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10768]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, Health and Human 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 September 14, 2021.

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.*

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–10768—The ESRD Network Peer Mentoring Program

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:* New collection (Request for a new OMB control number); *Title of Information Collection:* The ESRD Network Peer Mentoring Program; *Use:* The End Stage Renal Disease (ESRD) Network Peer Mentoring Program is a voluntary program designed to provide patient peer support to people with kidney disease. In part, the peer support is beneficial because patients can give each other something most practitioners do not have: Lived experience with kidney disease. The support and perspective of someone who has ''been there'' can help people better cope with their circumstances.

The ESRD Network Peer Mentoring Program is a partnership between dialysis facilities, ESRD Networks, and patient peer mentors and mentees that wish to engage in the program. The peer mentoring program is organized and published with educational opportunities for peer mentors and mentees, provides resources, and includes a complementary toolkit for ESRD Networks and dialysis facilities to promote and operationalize the program.

Program applicants are people with ESRD who: (1) Are adults over the age of 18; have been receiving in-center or home dialysis or have been transplanted for at least six months; actively engage in the care plan; consistently demonstrate leadership qualities at facility Quality Assurance & Performance Improvement (QAPI) meetings, Lobby Days, and other facility activities; and wish to be a peer mentor; or (2) are over 18 years of age; are newly diagnosed patients but have been on in-center dialysis for at least six months; are looking for peer support to help them transition to their new reality; and are known as a peer mentee.

To participate in the ESRD Network Peer Mentoring Program, peer mentors and mentees will complete an online application form stored in Confluence. The application serves to validate the peer mentor or peer mentee interest in the ESRD Network Peer Mentoring Program. Information collection is important to the process of pairing peer mentors and mentees with similarly lived experience and interests with their kidney disease. In addition, the application collects information about the peers' interest in kidney disease, treatment modality, age range, preferred gender recognition, and attitudes toward their kidney disease diagnosis. It also supports aligning hobbies, and genders to support best matched peers with each other. *Form Number:* CMS–10768 (OMB control number: 0938–NEW); *Frequency:* Once; *Affected Public:* Individuals and Households; *Number of Respondents:* 75; *Total Annual Responses:* 75; *Total Annual Hours:* 19. (For policy questions regarding this collection, contact Lisa Rees at 816–426–6353.)

Dated: July 12, 2021.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2021–15099 Filed 7–15–21; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Best Practices for Advancing Cultural Competency, Language Access and Sensitivity Toward Asian Americans and Pacific Islanders

AGENCY: Office of Minority Health, Department of Health and Human Services (HHS).

ACTION: Request for information.

SUMMARY: The U.S. Department of Health and Human Services (HHS) Office of Minority Health (OMH) seeks input from Asian American and Pacific Islander (AAPI) communities and AAPI-serving organizations to inform the development of guidance describing best practices for advancing cultural competency, language access, and sensitivity toward Asian Americans and Pacific Islanders in the context of the Federal Government's COVID–19 response. This is NOT a solicitation for proposals or proposal abstracts.

Please note: This request is for information (RFI) and is for planning purposes only. It is not a notice for a proposal and does not commit the federal government to issue a solicitation, make an award, or pay any costs associated with responding to this announcement. All submitted information shall remain with the federal government and will not be returned. All responses will become part of the public record and will not be held confidential. The federal government reserves the right to use information provided by respondents for purposes deemed necessary and legally appropriate. Respondents are advised that the federal government is under no obligation to acknowledge receipt of the information received or provide feedback to respondents with respect to any information submitted. Responses will not be accepted after the due date. After a review of the responses received, a notice of funding opportunity or pre-solicitation synopsis and solicitation may be published.

DATES: To be assured consideration in the development of best practices guidance, written comments must be submitted and received at the address provided below, no later than 11:59 p.m. on August 17, 2021.

ADDRESSES: OMH invites the submission of the requested information through one of the following methods:

- *Preferred method:* Submit information through the Federal eRulemaking Portal at *http://www.regulations.gov.* Follow the online instructions for submissions.
- *Email:* Send comments to minority*health@hhs.gov* with the subject line ''OMH RFI: AAPI Best Practices.''

Submissions received after the deadline will not be reviewed. Respond concisely and in plain language. You may use any structure or layout that presents your information well. You may respond to some or all of our questions, and you can suggest other factors or relevant questions. You may also include links to online material or interactive presentations. Clearly mark any proprietary information and place it in its own section or file. Your response will become government property, and we may publish some of its non-proprietary content.

FOR FURTHER INFORMATION CONTACT: Juliet Bui, 1101 Wootton Parkway, Suite 100, Rockville, MD, 20852, (240) 453–6166, *Juliet.Bui@hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background Information

On January 26, 2021, President Biden issued a Memorandum Condemning and Combating Racism, Xenophobia, and Intolerance against Asian Americans and Pacific Islanders in the United States. The memorandum directed the HHS Secretary, in coordination with the COVID–19 Health Equity Task Force, to

consider issuing guidance describing best practices for advancing cultural competency, language access, and sensitivity toward AAPIs in the context of the federal government's COVID–19 response, including best practices set forth by public health organizations and experts for mitigating racially discriminatory language in describing the COVID–19 pandemic. OMH is leading a Departmental response to the memorandum. In accordance with this memorandum, OMH seeks to obtain information that may become part of or inform guidance to be issued regarding best practices.

II. Definitions

For the purposes of this RFI, the following working definitions apply.

Best practices—A practice supported by evidence indicating effectiveness in advancing cultural competence, language access or sensitivity toward AAPIs in the context of the COVID–19 response, generally demonstrated through systematic review, research, evaluation or practice-based evidence. Practices could include interventions, programs, strategies, policies, procedures, processes or other activities.

COVID–19 response—Federal activities including, but not limited to:

- Data collection, utilization and reporting
- Allocation of personal protective equipment (PPE), tests, vaccines, therapeutics and other resources
- Enforcement of anti-discrimination and HIPAA requirements pertaining to availability and access to COVID–19 care and treatment
- Assistance to individuals and families experiencing disproportionate economic or health effects from COVID–19
- Training and placement of contact tracers and other workers
- Outreach related to vaccine trust and uptake, public health measures/prevention, testing, or other mitigation measure

III. Questions

- What specific best practices in the areas listed below should be included in federal guidance? Please describe the best practice(s), evidence of its effectiveness, and how it has been applied (or could be applied) to COVID–19 response activities.
  - ○ Advancing cultural competency toward AAPIs
  - ○ Advancing language access for AAPIs
  - ○ Advancing sensitivity toward AAPIs
  - ○ Mitigating racially discriminatory language against AAPIs
  - ○ Practices that apply the National Standards for Culturally and Linguistically Appropriate Services in Health and Health Care (National CLAS Standards).
- What sources/resources should HHS use to identify additional best practices in these areas?
- What considerations should be made in the content, audiences and format for best practices guidance products, particularly to support implementation?
- How should the best practices guidance be disseminated (*e.g.,* mechanisms, audiences)?
- Beyond issuing best practices guidance, how can HHS support implementation of the best practices?

Dated: July 12, 2021.

Juliet Bui,

Public Health Advisor, Office of Minority Health.

[FR Doc. 2021–15168 Filed 7–15–21; 8:45 am]

BILLING CODE 4150–29–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Endocrinology and Reproduction.

Date: August 5, 2021.

Time: 12:00 p.m. to 1:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Dianne Hardy, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6175, MSC 7892, Bethesda, MD 20892, 301–435–1154, *dianne.hardy@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: July 12, 2021.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–15119 Filed 7–15–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Neurodevelopment, Neurodegeneration, Neuroimmunology, Infections Diseases and Brain Tumors.

Date: July 29, 2021.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Pat Manos, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5200, MSC 7846, Bethesda, MD 20892, 301–408–9866, *manospa@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: July 12, 2021.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–15120 Filed 7–15–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Notice of Meeting for the Interdepartmental Substance Use Disorders Coordinating Committee (ISUDCC)

AGENCY: Substance Abuse and Mental Health Services Administration, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: The Secretary of Health and Human Services (Secretary) announces a meeting of the Interdepartmental Substance Use Disorders Coordinating Committee (ISUDCC).

The ISUDCC is open to the public and members of the public can attend the meeting via telephone or webcast only, and not in person. Agenda with call-in information will be posted on the SAMHSA website prior to the meeting at: *https://www.samhsa.gov/about-us/advisory-councils/meetings.* The meeting will include information on support for the mission and work of the Committee, federal advances to address challenges in substance use disorder (SUD); non-federal advances to address challenges in SUD.

Committee Name: Interdepartmental Substance Use Disorders Coordinating Committee (ISUDCC).

DATES: *Date/Time/Type:* August 26, 2021 from 1:00 p.m. EST–5:00 p.m. EST.

ADDRESSES: The meeting will be held virtually and can be accessed via Zoom.

SUPPLEMENTARY INFORMATION:

I. Background and Authority

The Interdepartmental Substance Use Disorders Coordinating Committee is required under Section 7022 of the Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities Act (SUPPORT Act, Pub. L. 115–271) to accomplish the following duties: (1) Identify areas for improved coordination of activities, if any, related to substance use disorders, including research, services, supports, and prevention activities across all relevant federal agencies; (2) identify and provide to the Secretary recommendations for improving federal programs for the prevention and treatment of, and recovery from, substance use disorders, including by expanding access to prevention, treatment, and recovery services; (3) analyze substance use disorder prevention and treatment strategies in different regions of and populations in the United States and evaluate the extent to which federal substance use disorder prevention and treatment strategies are aligned with State and local substance use disorder prevention and treatment strategies; (4) make recommendations to the Secretary regarding any appropriate changes with respect to the activities and strategies described in items (1) through (3) above; (5) make recommendations to the Secretary regarding public participation in decisions relating to substance use disorders and the process by which public feedback can be better integrated into such decisions; and (6) make recommendations to ensure that substance use disorder research, services, supports, and prevention activities of the Department of Health and Human Services and other federal agencies are not unnecessarily duplicative.

Not later than one year after the date of the enactment of this Act, and annually thereafter for the life of the Committee, the Committee shall publish on the internet website of the Department of Health and Human Services, which may include the public information dashboard established under section 1711 of the Public Health Service Act, as added by section 7021, a report summarizing the activities carried out by the Committee pursuant to subsection (e), including any findings resulting from such activities.

II. Membership

This ISUDCC consists of federal members listed below or their designees, and non-federal public members.

Federal Membership: Members include, The Secretary of Health and Human Services; The Attorney General of the United States; The Secretary of Labor; The Secretary of Housing and Urban Development; The Secretary of Education; The Secretary of Veterans Affairs; The Commissioner of Social Security; The Assistant Secretary for Mental Health and Substance Use; The Director of National Drug Control Policy; representatives of other Federal agencies that support or conduct activities or programs related to substance use disorders, as determined appropriate by the Secretary.

Non-federal Membership: Members include, 18 non-federal public members appointed by the Secretary, representing individuals who have received treatment for a diagnosis of a substance use disorder; directors of a State substance abuse agencies; representatives of a leading research, advocacy, or service organizations for adults with substance use disorder; physicians, licensed mental health professionals, advance practice registered nurses, and physician assistants, who have experience in treating individuals with substance use disorders; substance use disorder treatment professionals who provide treatment services at a certified opioid treatment program; substance use disorder treatment professionals who have research or clinical experience in working with racial and ethnic minority populations; substance use disorder treatment professionals who have research or clinical mental health experience in working with medically underserved populations; state-certified substance use disorder peer support specialists; drug court judge or a judge with experience in adjudicating cases related to substance use disorder; public safety officers with extensive experience in interacting with adults with a substance use disorder; and individuals with experiences providing services for homeless individuals with a substance use disorder.

The ISUDCC is required to meet at least twice per year.

To attend virtually, submit written or brief oral comments, or request special accommodation for persons with disabilities, contact Tracy Goss. Individuals can also register on-line at: *https://snacregister.samhsa.gov/MeetingList.aspx.*

The public comment section will be scheduled at the conclusion of the meeting. Individuals interested in submitting a comment, must notify Tracy Goss on or before August 20th via email to: *Tracy.Goss@samhsa.hhs.gov.*

Up to three minutes will be allotted for each approved public comment as time permits. Written comments received in advance of the meeting will be considered for inclusion in the official record of the meeting.

Substantive meeting information and a roster of Committee members is available at the Committee's website: *https://www.samhsa.gov/about-us/advisory-councils/meetings.*

FOR FURTHER INFORMATION CONTACT: Tracy Goss, ISUDCC Designated Federal Officer, Substance Abuse and Mental Health Services Administration, 5600 Fishers Lane, 13E37B, Rockville, MD 20857; telephone: 240–276–0759; email: *Tracy.Goss@samhsa.hhs.gov.*

Dated: July 12, 2021.

Carlos Castillo,

Committee Management Officer.

[FR Doc. 2021–15143 Filed 7–15–21; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2021–0002]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: New or modified Base (1-percent annual chance) Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, and/or regulatory floodways (hereinafter referred to as flood hazard determinations) as shown on the indicated Letter of Map Revision (LOMR) for each of the communities listed in the table below are finalized. Each LOMR revises the Flood Insurance Rate Maps (FIRMs), and in some cases the Flood Insurance Study (FIS) reports, currently in effect for the listed communities. The flood hazard determinations modified by each LOMR will be used to calculate flood insurance premium rates for new buildings and their contents.

DATES: Each LOMR was finalized as in the table below.

ADDRESSES: Each LOMR is available for inspection at both the respective Community Map Repository address listed in the table below and online through the FEMA Map Service Center at *https://msc.fema.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;* or visit the FEMA Mapping and Insurance eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final flood hazard determinations as shown in the LOMRs for each community listed in the table below. Notice of these modified flood hazard determinations has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Deputy Associate Administrator for Insurance and Mitigation has resolved any appeals resulting from this notification.

The modified flood hazard determinations are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The new or modified flood hazard information is the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to remain qualified for participation in the National Flood Insurance Program (NFIP).

This new or modified flood hazard information, 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.

This new or modified 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, and for the contents in those buildings. The changes in flood hazard determinations are in accordance with 44 CFR 65.4.

Interested lessees and owners of real property are encouraged to review the final flood hazard information available at the address cited below for each community or online through the FEMA Map Service Center at *https://msc.fema.gov.*

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Michael M. Grimm,

Assistant Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Alabama:					
Hale (FEMA Docket No.: B–2148).	Town of Moundville (20–04–3557P).	The Honorable Tony Lester, Mayor, Town of Moundville, P.O. Box 98, Moundville, AL 35474.	Maps and Zoning Department, 410 Market Street, Moundville, AL 35474.	Jul. 8, 2021	100096
Hale (FEMA Docket No.: B–2148).	Unincorporated areas of Hale County (20–04–3557P).	The Honorable Arthur Crawford, Chairman, Hale County Board of Commissioners P.O. Box 396, Greensboro, AL 36744.	Hale County Engineering and Road Department, 703 Cork Street, Greensboro, AL 36744.	Jul. 8, 2021	100094
Arkansas:					
Benton (FEMA Docket No.: B–2119).	City of Bentonville (21–06–0361P).	The Honorable Stephanie Orman, Mayor, City of Bentonville, 117 West Central Avenue, Bentonville, AR 72712.	City Hall, 117 West Central Avenue, Bentonville, AR 72712.	Jun. 28, 2021	050012
Benton (FEMA Docket No.: B–2119).	Unincorporated areas of Benton County (21–06–0361P).	The Honorable Barry Mooring, Benton County Judge, 215 East Central Avenue, Bentonville, AR 72712.	Benton County Planning Department, 2113 West Walnut Street, Rogers, AR 72756.	Jun. 28, 2021	050419
Colorado:					

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
El Paso (FEMA Docket No.: B–2117).	City of Colorado Springs (20–08–0838P).	The Honorable John Suthers, Mayor, City of Colorado Springs, 30 South Nevada Avenue, Suite 601, Colorado Springs, CO 80903.	Pikes Peak Regional Development Center, 2880 International Circle, Colorado Springs, CO 80910.	Jun. 17, 2021	080060
Jefferson (FEMA Docket No.: B–2119).	City of Lakewood (20–08–0805P).	The Honorable Adam A. Paul, Mayor, City of Lakewood, 480 South Allison Parkway, Lakewood, CO 80226.	Engineering Department, 480 South Allison Parkway, Lakewood, CO 80226.	Jun. 25, 2021	085075
Larimer (FEMA Docket No.: B–2125).	City of Fort Collins (20–08–0643P).	The Honorable Wade Troxell, Mayor, City of Fort Collins, P.O. Box 580, Fort Collins, CO 80522.	Stormwater Utilities Department, 700 Wood Street, Fort Collins, CO 80521.	Jun. 25, 2021	080102
Delaware: New Castle (FEMA Docket No.: B–2119).	Unincorporated areas of New Castle County (20–03–1345P).	The Honorable Matthew Meyer, New Castle County Executive, 87 Read's Way, New Castle, DE 19720.	New Castle County Land Use Department, 87 Read's Way, New Castle, DE 19720.	Jun. 17, 2021	105085
Florida:					
Miami-Dade (FEMA Docket No.: B–2119).	City of Miami (21–04–1237P).	The Honorable Francis X. Suarez, Mayor, City of Miami, 3500 Pan American Drive, Miami, FL 33133.	Building Department, 444 Southwest 2nd Avenue, 4th Floor, Miami, FL 33130.	Jun. 16, 2021	120650
Palm Beach (FEMA Docket No.: B–2119).	Unincorporated areas of Palm Beach County (20–04–3494P).	The Honorable David Kerner, Mayor, Palm Beach County Board of Commissioners, 301 North Olive Avenue, Suite 1201, West Palm Beach, FL 33401.	Palm Beach County Building Division, 2300 North Jog Road, West Palm Beach, FL 33411.	Jun. 15, 2021	120192
Palm Beach (FEMA Docket No.: B–2119).	Unincorporated areas of Palm Beach County (21–04–0678P).	The Honorable David Kerner, Mayor, Palm Beach County Board of Commissioners, 301 North Olive Avenue, Suite 1201, West Palm Beach, FL 33401.	Palm Beach County Building Division, 2300 North Jog Road, West Palm Beach, FL 33411.	Jun. 16, 2021	120192
Pinellas (FEMA Docket No.: B–2117).	City of Clearwater (20–04–6149P).	Mr. William Horne, City of Clearwater Manager, P.O. Box 4748, Clearwater, FL 33756.	Engineering Department, 100 South Myrtle Avenue, Suite 220, Clearwater, FL 33756.	Jun. 17, 2021	125096
Pinellas (FEMA Docket No.: B–2125).	City of Treasure Island (21–04–0293P).	Mr. Garry Brumback, Manager, City of Treasure Island, 120 108th Avenue, Treasure Island, FL 33706.	Community Development Department, 120 108th Avenue, Treasure Island, FL 33706.	Jun. 28, 2021	125153
Georgia: Columbia (FEMA Docket No.: B–2119).	Unincorporated areas of Columbia County (20–04–3801P).	The Honorable Douglas R. Duncan, Jr., Chairman, Columbia County Board of Commissioners, 630 Ronald Reagan Drive, Building B, Evans, GA 30809.	Columbia County Engineering Services Division, 630 Ronald Reagan Drive, Building A, Evans, GA 30809.	Jun. 17, 2021	130059
Maryland: Howard (FEMA Docket No.: B–2130).	Unincorporated areas of Howard County (20–03–1198P).	The Honorable Calvin Ball, Howard County Executive, 3430 Court House Drive, Ellicott City, MD 21043.	Howard County Department of Public Works, Bureau of Environmental Services, 9801 Broken Land Parkway, Columbia, MD 21046.	Jun. 25, 2021	240044
Oklahoma: Cleveland (FEMA Docket No.: B–2119).	City of Norman (21–06–0022P).	The Honorable Breea Clark, Mayor, City of Norman, P.O. Box 370, Norman, OK 73070.	Public Works Department, Stormwater Division, 201 West Gray Street, Building A, Norman, OK 73069.	Jun. 25, 2021	400046
Pennsylvania:					

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Armstrong (FEMA Docket No.: B–2119).	Borough of Applewold (20–03–1614P).	The Honorable Faith Shaw, President, Borough of Applewold Council, 351 Franklin Avenue, Kittanning, PA 16201.	Borough Hall, 8 Hickory Street, Kittanning, PA 16201.	Jun. 21, 2021	420093
Armstrong (FEMA Docket No.: B–2119).	Borough of Ford City (20–03–1614P).	The Honorable Jeff Cogley, Mayor, Borough of Ford City, P.O. Box 112, Ford City, PA 16226.	Borough Hall, 1000 4th Avenue, Ford City, PA 16226.	Jun. 21, 2021	420094
Armstrong (FEMA Docket No.: B–2119).	Borough of Kittanning (20–03–1614P).	The Honorable Scott Kline, Mayor, Borough of Kittanning, 1511 Orr Avenue, Kittanning, PA 16201.	Borough Hall, 300 South McKean Street, Kittanning, PA 16201.	Jun. 21, 2021	420096
Armstrong (FEMA Docket No.: B–2119).	Borough of Manorville (20–03–1614P).	The Honorable Greg Meyer, Councilman, Borough of Manorville Council, 900 Water Street, Manorville, PA 16238.	Borough Hall, 600 Center Lane, Manorville, PA 16238.	Jun. 21, 2021	420098
Armstrong (FEMA Docket No.: B–2119).	Township of Bethel (20–03–1614P).	The Honorable Steven Dixon, Chairman, Township of Bethel Board of Supervisors, 3218 Ridge Road, Ford City, PA 16226.	Township Hall, 3218 Ridge Road, Ford City, PA 16226.	Jun. 21, 2021	421300
Armstrong (FEMA Docket No.: B–2119).	Township of Cadogan (20–03–1614P).	The Honorable David Round, Chairman, Township of Cadogan Board of Supervisors, P.O. Box 309, Cadogan, PA 16212.	Township Hall, 333 1st Avenue, Cadogan, PA 16212.	Jun. 21, 2021	421304
Armstrong (FEMA Docket No.: B–2119).	Township of East Franklin (20–03–1614P).	The Honorable Barry Peters, Chairman, Township of East Franklin Board of Supervisors, 739 East Brady Road, Cowansville, PA 16218.	Township Hall, 106 Cherry Orchard Avenue, Kittanning, PA 16201.	Jun. 21, 2021	421305
Armstrong (FEMA Docket No.: B–2119).	Township of Manor (20–03–1614P).	The Honorable Donald W. Palmer, Jr., Chairman, Township of Manor Board of Supervisors, P.O. Box 144, McGrann, PA 16236.	Township Hall, 306 Byron Street, McGrann, PA 16236.	Jun. 21, 2021	421309
Armstrong (FEMA Docket No.: B–2119).	Township of North Buffalo (20–03–1614P).	The Honorable Michael Valencic, Chairman, Township of North Buffalo Board of Supervisors, 149 McHaddon Road, Kittanning, PA 16201.	Township Hall, 149 McHaddon Road, Kittanning, PA 16201.	Jun. 21, 2021	421310
Armstrong (FEMA Docket No.: B–2119).	Township of South Buffalo (20–03–1614P).	The Honorable Joe Charlton, Chairman, Township of South Buffalo Board of Supervisors, 384 Iron Bridge Road, Freeport, PA 16229.	Township Hall, 384 Iron Bridge Road, Freeport, PA 16229.	Jun. 21, 2021	421210
Texas:					
Bexar (FEMA Docket No.: B–2130).	City of Converse (21–06–0348X).	The Honorable Al Suarez, Mayor, City of Converse, 406 South Seguin, Converse, TX 78109.	City Hall, 406 South Seguin, Converse, TX 78109.	Jun. 21, 2021	480038
Bexar (FEMA Docket No.: B–2125).	City of San Antonio (20–06–3342P).	The Honorable Ron Nirenberg, Mayor, City of San Antonio, P.O. Box 839966, San Antonio, TX 78283.	Transportation and Capital Improvements Department, Stormwater Division, 114 West Commerce Street, 7th Floor, San Antonio, TX 78205.	Jun. 28, 2021	480045

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Bexar (FEMA Docket No.: B–2130).	City of Universal City (21–06–0348X).	The Honorable John Williams, Mayor, City of Universal City, 2150 Universal City Boulevard, Universal City, TX 78148.	Department of Stormwater, 2150 Universal City Boulevard, Universal City, TX 78148.	Jun. 21, 2021	480049
Brazoria (FEMA Docket No.: B–2125).	City of Pearland (20–06–2501P).	The Honorable Kevin Cole, Mayor, City of Pearland, 3519 Liberty Drive, Pearland, TX 77581.	Engineering Division, 3519 Liberty Drive, Pearland, TX 77581.	Jun. 28, 2021	480077
Burnet (FEMA Docket No.: B–2076).	Unincorporated areas of Burnet County (20–06–3344P).	The Honorable James Oakley, Burnet County Judge, 220 South Pierce Street, Burnet, TX 78611.	Burnet County Development Services Department, 133 East Jackson Street, Burnet, TX 78611.	Apr. 28, 2021	481209
Cherokee (FEMA Docket No.: B–2130).	City of Rusk (20–06–2542P).	The Honorable Angela Raiborn, Mayor, City of Rusk, 205 South Main Street, Rusk, TX 75785.	Development Services Department, 205 South Main Street, Rusk, TX 75785.	Jun. 21, 2021	480124
Cherokee (FEMA Docket No.: B–2130).	Unincorporated areas of Cherokee County (20–06–2542P).	The Honorable Chris Davis, Cherokee County Judge, 135 South Main Street, 3rd Floor, Rusk, TX 75785.	Cherokee County Emergency Management Department, 135 South Main Street, Rusk, TX 75785.	Jun. 21, 2021	480739
El Paso (FEMA Docket No.: B–2119).	City of El Paso (20–06–2846P).	The Honorable Oscar Leeser, Mayor, City of El Paso, 300 North Campbell Street, El Paso, TX 79901.	Flood Mitigation and Land Development Department, 801 Texas Avenue, El Paso, TX 79901.	Jun. 25, 2021	480214
Fort Bend (FEMA Docket No.: B–2119).	Unincorporated areas of Fort Bend County (20–06–1722P).	The Honorable K.P. George, Fort Bend County Judge, 301 Jackson Street, 4th Floor, Richmond, TX 77469.	Fort Bend County Engineering Department, 301 Jackson Street, 4th Floor, Richmond, TX 77469.	Jun. 23, 2021	480228
Harris (FEMA Docket No.: B–2130).	City of Houston (20–06–2232P).	The Honorable Sylvester Turner, Mayor, City of Houston, P.O. Box 1562, Houston, TX 77251.	Floodplain Management Department, 1002 Washington Avenue, Houston, TX 77002.	Jun. 21, 2021	480296
Harris (FEMA Docket No.: B–2125).	City of Houston (20–06–3198P).	The Honorable Sylvester Turner, Mayor, City of Houston, P.O. Box 1562, Houston, TX 77251.	Floodplain Management Department, 1002 Washington Avenue, Houston, TX 77002.	Jun. 28, 2021	480296
Harris (FEMA Docket No.: B–2125).	Unincorporated areas of Harris County (19–06–2834P).	The Honorable Lina Hidalgo, Harris County Judge, 1001 Preston Street, Suite 911, Houston, TX 77002.	Harris County Permit Office, 10555 Northwest Freeway, Suite 120, Houston, TX 77002.	Jun. 28, 2021	480287
Harris (FEMA Docket No.: B–2125).	Unincorporated areas of Harris County (20–06–3198P).	The Honorable Lina Hidalgo, Harris County Judge, 1001 Preston Street, Suite 911, Houston, TX 77002.	Harris County Permit Office, 10555 Northwest Freeway, Suite 120, Houston, TX 77002.	Jun. 28, 2021	480287
Llano (FEMA Docket No.: B–2076).	Unincorporated areas of Llano County (20–06–3344P).	The Honorable Mary S. Cunningham, Llano County Judge, 801 Ford Street, Room 101, Llano, TX 78643.	Llano County Land Development and Emergency Management, 100 West Sandstone Street, Suite 200A, Llano, TX 78643.	Apr. 28, 2021	481234
Tarrant (FEMA Docket No.: B–2119).	City of Fort Worth (20–06–3276P).	The Honorable Betsy Price, Mayor, City of Fort Worth, 200 Texas Street, Fort Worth, TX 76102.	Transportation and Public Works Department, Engineering Vault, 200 Texas Street, Fort Worth, TX 76102.	Jun. 21, 2021	480596
Tarrant (FEMA Docket No.: B–2119).	Unincorporated areas of Tarrant County (20–06–3276P).	The Honorable B. Glen Whitley, Tarrant County Judge, 100 East Weatherford Street, Fort Worth, TX 76196.	Tarrant County Administration Building, 100 East Weatherford Street, Fort Worth, TX 76196.	Jun. 21, 2021	480582

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Travis (FEMA Docket No.: B–2119).	City of Manor (20–06–2376P).	Mr. Thomas M. Bolt, City of Manor Manager, 105 East Eggleston Street, Manor, TX 78653.	Department of Development Services, 105 East Eggleston Street, Manor, TX 78653.	Jun. 21, 2021	481027
Travis (FEMA Docket No.: B–2119).	Unincorporated areas of Travis County (20–06–2376P).	The Honorable Andy Brown, Travis County Judge, 700 Lavaca Street, Suite 2300, Austin, TX 78701.	Travis County Transportation and Natural Resources Department, 700 Lavaca Street, 5th Floor, Austin, TX 78767.	Jun. 21, 2021	481026
Virginia:					
Albemarle (FEMA Docket No.: B–2125).	Unincorporated areas of Albemarle County (20–03–1533P).	Mr. Jeffrey B. Richardson, Albemarle County Executive, 401 McIntire Road, Charlottesville, VA 22902.	Albemarle County Department of Community Development, 401 McIntire Road, Charlottesville, VA 22902.	Jun. 23, 2021	510006
Independent City (FEMA Docket No.: B–2119).	City of Harrisonburg (20–03–1670P).	The Honorable Deanna R. Reed, Mayor, City of Harrisonburg, 409 South Main Street, Harrisonburg, VA 22801.	City Hall, 409 South Main Street, Harrisonburg, VA 22801.	Jun. 25, 2021	510076
Prince William (FEMA Docket No.: B–2119).	Unincorporated areas of Prince William County (20–03–1200P).	The Honorable Ann B. Wheeler, Chair-At-Large, Prince William County Board of Supervisors, 1 County Complex Court, Prince William, VA 22192.	Prince William County Department of Public Works, 5 County Complex Court, Prince William, VA 22192.	Jun. 17, 2021	510119

[FR Doc. 2021–15116 Filed 7–15–21; 8:45 am]

BILLING CODE 9110–12–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–647 and 731–TA–1517–1520 (Final)]

Passenger Vehicle and Light Truck Tires From Korea, Taiwan, Thailand, and Vietnam

Determinations

On the basis of the record [1] developed in the subject investigations, the United States International Trade Commission (''Commission'') determines, pursuant to the Tariff Act of 1930 (''the Act''), that an industry in the United States is materially injured by reason of imports of passenger vehicle and light truck tires (''PVLT tires''), provided for in subheadings 4011.10.10, 4011.10.50, 4011.20.10, and 4011.20.50 of the Harmonized Tariff Schedule of the United States, that have been found by the U.S. Department of Commerce (''Commerce'') to be sold in the United States at less than fair value (''LTFV'') from Korea, Taiwan, and Thailand, and to be subsidized by the government of Vietnam.[2] The Commission further found that imports of these products from Vietnam that Commerce has determined are sold in the United States at less than fair value are negligible and terminates the antidumping duty investigation concerning Vietnam.

Background

The Commission instituted these investigations effective May 13, 2020, following receipt of petitions filed with the Commission and Commerce by United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL–CIO, CLC (''USW''), Pittsburgh, Pennsylvania. The final phase of the investigations was scheduled by the Commission following notification of preliminary determinations by Commerce that imports of PVLT tires from Vietnam were subsidized within the meaning of section 703(b) of the Act (19 U.S.C. 1671b(b)), and that imports of PVLT tires from Korea, Taiwan, Thailand, and Vietnam were sold at LTFV within the meaning of 733(b) of the Act (19 U.S.C. 1673b(b)). Notice of the scheduling of the final phase of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** on January 29, 2021 (86 FR 7561). In light of the restrictions on access to the Commission building due to the COVID–19 pandemic, the Commission conducted its hearing through written testimony and video conference on May 25, 2021. All persons who requested the opportunity were permitted to participate.

The Commission made these determinations pursuant to §§ 705(b) and 735(b) of the Act (19 U.S.C. 1671d(b) and 19 U.S.C. 1673d(b)). It completed and filed its determinations in these investigations on July 12, 2021. The views of the Commission are contained in USITC Publication 5212 (July 2021), entitled *Passenger Vehicle and Light Truck Tires from Korea, Taiwan, Thailand, and Vietnam: Investigation Nos. 701–TA–647 and 731–TA–1517–1520 (Final).*

By order of the Commission.

Issued: July 12, 2021.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2021–15108 Filed 7–15–21; 8:45 am]

BILLING CODE 7020–02–P

[1] The record is defined in § 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] Commissioner David S. Johanson dissenting.

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1197]

Certain Portable Gaming Console Systems With Attachable Handheld Controllers and Components Thereof II; Notice of Request for Submissions on the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that on July 2, 2021, the presiding administrative law judge (''ALJ'') issued an Initial Determination on Violation of Section 337. The ALJ also issued a recommended determination on remedy and bonding should a violation be found in the above-captioned investigation. The Commission is soliciting submissions on public interest issues raised by the recommended relief should the Commission find a violation. This notice is soliciting comments from the public only.

FOR FURTHER INFORMATION CONTACT: Robert Needham, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 708–5468. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.* General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: Section 337 of the Tariff Act of 1930 provides that, if the Commission finds a violation, it shall exclude the articles concerned from the United States:

unless, after considering the effect of such exclusion upon the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and United States consumers, it finds that such articles should not be excluded from entry.

19 U.S.C. 1337(d)(1). A similar provision applies to cease and desist orders. 19 U.S.C. 1337(f)(1).

The Commission is soliciting submissions on public interest issues raised by the recommended relief should the Commission find a violation, specifically: A limited exclusion order and cease and desist orders against certain portable gaming console systems with attachable handheld controllers and components thereof by respondents Nintendo Co., Ltd. and Nintendo of America, Inc. Parties are to file public interest submissions pursuant to 19 CFR 210.50(a)(4).

The Commission is interested in further development of the record on the public interest in this investigation. Accordingly, members of the public are invited to file submissions of no more than five (5) pages, inclusive of attachments, concerning the public interest in light of the administrative law judge's recommended determination on remedy and bonding issued in this investigation on July 2, 2021. Comments should address whether issuance of the recommended limited exclusion order 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 recommended limited exclusion order are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the recommended limited exclusion order;

(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 recommended limited exclusion order within a commercially reasonable time; and

(v) explain how the recommended limited exclusion order would impact consumers in the United States.

Written submissions must be filed no later than by close of business on July 26, 2019.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above. The Commission's paper filing requirements in 19 CFR 210.4(f) are currently waived. 85 FR 15798 (March 19, 2020). Submissions should refer to the investigation number (''Inv. No. 337–TA–1197'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, *http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf*). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. 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,[1] solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: July 12, 2021.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2021–15105 Filed 7–15–21; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Service Contract Inventory; Notice of Availability

AGENCY: Justice Management Division, Department of Justice.

ACTION: Notice.

SUMMARY: The Department of Justice is publishing this notice to advise the public of the availability of its FY 2018 Service Contracts Inventory and Inventory Supplement. The inventory includes service contract actions over $25,000 that were awarded in Fiscal Year (FY) 2018. The inventory

[1] All contract personnel will sign appropriate nondisclosure agreements.

supplement includes information collected from contractors on the amount invoiced and direct labor hours expended for covered service contracts. The Department of Justice analyzes this data for the purpose of determining whether its contract labor is being used in an effective and appropriate manner and if the mix of federal employees and contractors in the agency is effectively balanced. The inventory and supplement do not include contractor proprietary or sensitive information. The FY 2018 Service Contract Inventory and Inventory Supplements are provided at the following link: *https://www.justice.gov/jmd/service-contract-inventory.*

FOR FURTHER INFORMATION CONTACT: Kevin Doss, Office of Acquisition Management, Justice Management Division, U.S. Department of Justice, Washington, DC 20530; Phone: 202–616–3758; Email: *Kevin.Doss@usdoj.gov.*

Authority: Section 743 of Division C of the FY 2010 Consolidated Appropriations Act, Pub. L. 111–117.

Dated: July 13, 2021.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2021–15149 Filed 7–15–21; 8:45 am]

BILLING CODE 4410–02–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of a Change in Status of the Extended Benefit (EB) Program for District of Columbia, Massachusetts, New Mexico, and Rhode Island

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

This notice announces changes in benefit period eligibility under the EB program that have occurred since the publication of the last notice regarding the States' EB status:

- Based on data released by the Bureau of Labor Statistics (BLS) on May 21, 2021:

○ The seasonally-adjusted total unemployment rate (TUR) for New Mexico exceeded 8.0 percent was greater than 110 percent in both the prior or second prior year. Legislation the State enacted adopting the optional TUR triggers became effective the week ending June 19, 2021, meaning the New Mexico will begin a high unemployment period (HUP) period effective July 4, 2021. Beginning July 4, 2021, the maximum potential EB entitlement for claimants in New Mexico will be 20 weeks.

○ The 13-week mandatory ''on'' period for the HUP for the District of Columbia and Massachusetts will end on July 3, 2021. During the 13-week mandatory ''on'' period, the seasonally-adjusted TURs for both the District and Massachusetts fell below the 8.0% threshold necessary to remain ''on'' a HUP. As such, beginning July 4, 2021, the maximum potential EB entitlement for claimants in the District of Columbia and Massachusetts will decrease from 20 weeks to 13 weeks.

- Based on the data released by the BLS on June 23, 2021 the seasonally-adjusted TUR for Massachusetts and Rhode Island fell below the 6.5% threshold to remain ''on'' EB. Therefore, the EB period for both states will end on July 17, 2021.

The trigger notice covering state eligibility for the EB program can be found at: *http://ows.doleta.gov/unemploy/claims_arch.as.*

Information for Claimants

The duration of benefits payable in the EB program, and the terms and conditions on which they are payable, are governed by the Federal-State Extended Unemployment Compensation Act of 1970, as amended, and the operating instructions issued to the states by the U.S. Department of Labor. In the case of a state beginning an EB period, the State Workforce Agency will furnish a written notice of potential entitlement to each individual who has exhausted all rights to regular benefits and is potentially eligible for EB (20 CFR 615.13(c)(1)).

Persons who believe they may be entitled to EB, or who wish to inquire about their rights under the program, should contact their State Workforce Agency.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Labor, Employment and Training Administration, Office of Unemployment Insurance Room S–4524, Attn: Thomas Stengle, 200 Constitution Avenue NW, Washington, DC 20210, telephone number (202) 693–2991 (this is not a toll-free number) or by email: *Stengle.Thomas@dol.gov.*

Signed in Washington, DC.

Suzan G. LeVine,

Principal Deputy Assistant Secretary for Employment and Training, Labor.

[FR Doc. 2021–15110 Filed 7–15–21; 8:45 am]

BILLING CODE 4510–FW–P

DEPARTMENT OF LABOR

Employment and Training Administration

Relocation of the Office of Foreign Labor Certification's Atlanta National Processing Center; Change of Physical Mailing Address

ACTION: Notice.

SUMMARY: The U.S. Department of Labor's Employment and Training Administration is providing notice that the Office of Foreign Labor Certification (OFLC) is changing the mailing address for its Atlanta National Processing Center (ANPC) beginning August 25, 2021, with the exception of mail associated with the processing of applications requesting permanent labor certification subject to supervised recruitment.

DATES: The new address announced in this notice is effective on August 25, 2021.

FOR FURTHER INFORMATION CONTACT: Brian Pasternak, Administrator, Office of Foreign Labor Certification, Employment and Training Administration, U.S. Department of Labor, by telephone 202–513–7379 (this is not a toll-free number) or, for individuals with hearing or speech impairments, TTY 1–877–889–5627.

SUPPLEMENTARY INFORMATION:

I. Background

OFLC's National Office provides program leadership and policy guidance, and develops regulations and procedures to implement the responsibilities of the Secretary under the Department's foreign labor certification programs. 20 CFR 655.2(a), 656.3.

OFLC's Atlanta National Processing Center (ANPC) primarily processes labor certification applications filed by, or on behalf of, employers seeking to permanently employ foreign workers in the U.S., as well as labor condition applications or labor attestations for the E–3, H–1B, and H–1B1 visa classifications. OFLC's expanded use of technology allows for the electronic filing of employer applications and facilitates the transmission and exchange of official notifications and supporting documents. As a result, OFLC strongly urges stakeholders to continue to, or begin to, register online for submitting applications and uploading all required or responsive documents directly into the PERM Online System (*https://www.plc.doleta.gov/*) or Foreign Labor Application Gateway (FLAG) System

(*https://flag.dol.gov/*), as appropriate. All mail related to these applications is currently submitted to the ANPC's physical mailing address at: U.S. Department of Labor, Employment and Training Administration, Office of Foreign Labor Certification, Atlanta National Processing Center, Harris Tower, 233 Peachtree Street NE, Suite 410, Atlanta, GA 30303.

This Notice informs the public about a change of address for ANPC. As specified below, with the exception of mail associated with the processing of applications requesting permanent labor certification subject to supervised recruitment under 20 CFR 656.21, the address change for ANPC is effective on August 25, 2021.

II. ANPC's New Address

Effective August 25, 2021, any mail, including U.S. Postal Service and other courier mail or parcel delivery packages, etc., sent to ANPC must be submitted to the following new mailing address: U.S. Department of Labor, Employment and Training Administration, Office of Foreign Labor Certification, 200 Constitution Avenue NW, Room N–5311, Washington, DC 20210. The one exception is mail associated with Supervised Recruitment under 20 CFR 656.21, which must continue to be submitted to: U.S. Department of Labor, Employment and Training Administration, Office of Foreign Labor Certification, Atlanta National Processing Center, Attn: Supervised Recruitment, P.O. Box 56625, Atlanta, GA 30343.

Employers are reminded to adhere to regulatory requirements at 20 CFR 656.10(d), including providing ANPC's correct new mailing address, specified above, on the Notice of Filing (NOF) that must be posted when employers file a Form ETA–9089, *Application for Permanent Employment Certification.* If the required 10-day posting period for a NOF commences after September 5, 2021, employers must include the new mailing address contained in this notice. 20 CFR 656.10(d)(3)(iii).

The correct new mailing address above must be used as of August 25, 2021. Any U.S. Postal Service mail addressed to the prior ANPC mailing address will be forwarded by the U.S. Postal Service, but OFLC will not consider such forwarded mail timely if the mail is postmarked after September 15, 2021. Courier services and other courier mail or parcel delivery services, etc., will no longer be able to deliver to ANPC's prior mailing address as of August 25, 2021.

Suzan G. LeVine,

Principal Deputy Assistant Secretary for the Employment and Training, Labor.

[FR Doc. 2021–15112 Filed 7–15–21; 8:45 am]

BILLING CODE 4510–FP–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Reentry Employment Opportunity (REO) Evaluation

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Office of the Assistant Secretary for Policy, Chief Evaluation Office (CEO)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before August 16, 2021.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) if the information will be processed and used in a timely manner; (3) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (4) ways to enhance the quality, utility and clarity of the information collection; and (5) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: Crystal Rennie by telephone at 202–693–0456 or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: The overall aim of the evaluation is to determine whether the REO programs improve employment outcomes and workforce readiness for young adults and adults with previous involvement in the criminal justice system. CEO contracted with Mathematica and its subcontractor, Social Policy Research Associates, to conduct this evaluation. The evaluation will include an implementation study and an impact study. This package requests clearance for four data collection instruments: Grantee survey, Semistructured interview protocol, Participant focus group protocol and Employer focus group protocol. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on March 6, 2019 (84 FR 8117). To better assess the program, the current data collection instruments include a number of additional questions about COVID–19 and how the program adapted during the pandemic. All other questions remain the same.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL–CEO.

Title of Collection: Reentry Employment Opportunity Evaluation.

OMB Control Number: 1290–0NEW.

Affected Public: Individuals or Household.

Total Estimated Number of Respondents: 470.

Total Estimated Number of Responses: 470.

Total Estimated Annual Time Burden: 631 hours.

Total Estimated Annual Other Costs Burden: $0.

Authority: 44 U.S.C. 3507(a)(1)(D).

Crystal Rennie,

Senior PRA Analyst.

[FR Doc. 2021–15111 Filed 7–15–21; 8:45 am]

BILLING CODE 4510–HX–P

LEGAL SERVICES CORPORATION

Sunshine Act Meeting

DATE AND TIME: The Legal Services Corporation's Board of Directors and its six committees will meet July 22–23, 2021. On Thursday, July 22, the first meeting will begin at 11:00 a.m. Eastern Daylight Time (EDT), with the next meeting commencing promptly upon adjournment of the immediately preceding meeting. On Friday, July 23, the first meeting will again begin at 11:00 a.m., EDT, with the next meeting commencing promptly upon adjournment of the immediately preceding meeting.

LOCATION: Public Notice Of Virtual Remote Meeting. Legal Services Corporation (LSC) will conduct the July 22–23, 2021 meetings virtually via ZOOM.

PUBLIC OBSERVATION: Unless otherwise noted herein, the Board and all committee meetings will be open to public observation. Members of the public who wish to participate remotely in the public proceedings may do so by following the directions provided below.

DIRECTIONS FOR OPEN SESSIONS:

Thursday, July 22, 2021

- To join the Zoom meeting by computer, please click this link.
  - *https://lsc-gov.zoom.us/j/96265076865?pwd=MUtVODlLVHV2ZFJtNFZRSHpGNzJ5Zz09*
  - *Meeting ID:* 962 6507 6865
  - *Passcode:* 104547
- To join the Zoom meeting with one tap from your mobile phone, please click dial:
  - +13017158592,,96265076865# US (Washington, DC)
  - +16468769923,,96265076865# US (New York)
- To join the Zoom meeting by telephone, please dial one of the following numbers:
  - +1 301 715 8592 US (Washington, DC)
  - +1 646 876 9923 US (New York)
  - +1 312 626 6799 US (Chicago)
  - +1 669 900 6833 US (San Jose)
  - +1 253 215 8782 US (Tacoma)
  - +1 346 248 7799 US (Houston)
  - +1 408 638 0968 US (San Jose)
  - *Meeting ID*: 962 6507 6865
  - *Find your local number: https://lsc-gov.zoom.us/u/acCVpRj1FD*

Friday, July 23, 2021

- To join the Zoom meeting by computer, please click this link.
  - *https://lsc-gov.zoom.us/j/94866369776?pwd=RkRVWENzdEFpSU9xN3htN2hMU3V1UT09*
  - *Meeting ID:* 948 6636 9776
  - *Passcode:* 955616
- To join the Zoom meeting with one tap from your mobile phone, please click dial:
  - +13017158592,,94866369776# US (Washington, DC)
  - +13126266799,,94866369776# US (Chicago)
- To join the Zoom meeting by telephone, please dial one of the following numbers:
  - +1 301 715 8592 US (Washington, DC)
  - +1 312 626 6799 US (Chicago)
  - +1 646 876 9923 US (New York)
  - +1 253 215 8782 US (Tacoma)
  - +1 346 248 7799 US (Houston)
  - +1 408 638 0968 US (San Jose)
  - +1 669 900 6833 US (San Jose)
  - *Meeting ID:* 948 6636 9776
  - *Find your local number: https://lsc-gov.zoom.us/u/acYqkXUrVo*

Once connected to Zoom, please immediately ''MUTE'' your computer/telephone. Members of the public are asked to keep their computers or telephones muted to eliminate background noise. To avoid disrupting the meetings, please refrain from placing the call on hold if doing so will trigger recorded music or other sound.

From time to time, the Chair may solicit comments from the public. To participate in the meeting during public comment, use the 'raise your hand' or 'chat' functions in Zoom and wait to be recognized by the Chair before stating your questions and/or comments.

MEETING SCHEDULE

	Start time *
Thursday July 22, 2021	
1. Governance and Performance Review Committee 2. Finance Committee. 3. Combined Audit & Finance Committees. 4. Audit Committee. 5. Operations & Regulations Committee. 6. Delivery of Legal Services Committee.	11:00 a.m. EDT.
Friday July 23, 2021	
1. Institutional Advancement Committee 2. Communications Subcommittee of the Institutional Advancement Committee. 3. Board of Directors.	11:00 a.m. EDT.

STATUS OF MEETING: Open, except as noted below.

** Please note all meetings are Eastern Daylight Time (EDT).*

Audit Committee—Open, except that the meeting may be closed to the public to hear a briefings on the Office of Compliance and Enforcement's active enforcement matters and LSC's system of internal controls designed to minimize the risk of fraud, theft, corruption, or misuse of funds.**

Institutional Advancement Committee—Open, except that, upon a vote of the Board of Directors, the meeting may be closed to the public to consider and act on a recommendation to invite prospective members to join the Leaders Council and Emerging Leaders Council, and to receive a briefing on development activities.* *

Board of Directors—Open, except that, upon a vote of the Board of Directors, a portion of the meeting may be closed to the public to hear briefings by management and LSC's Inspector General, and to consider and act on the General Counsel's report on potential and pending litigation involving LSC and prospective Leaders Council and Emerging Leaders Council invitees.* *

A verbatim written transcript will be made of the closed session of the Board, Audit and Institutional Advancement Committee meetings. The transcript of any portions of the closed sessions falling within the relevant provisions of the Government in the Sunshine Act, 5 U.S.C. 552b(c)(6) and (10), will not be available for public inspection. A copy of the General Counsel's Certification that, in his opinion, the closing is authorized by law will be available upon request.

MATTERS TO BE CONSIDERED:

July 22, 2021

Governance and Performance Review Agenda

Open Session

1. Approval of agenda
2. Approval of minutes of the Committee's Open Session and Closed Session meetings on April 19, 2021
3. Report on Transition: White House and U.S. Department of Justice announcements establishing the Access to Justice Office and Legal Aid Interagency Roundtable, and presenting initiatives to address evictions and foreclosures
   a. Carol Bergman, Vice President, Government Relations & Public Affairs

***Any portion of the closed session consisting solely of briefings does not fall within the Sunshine Act's definition of the term ''meeting'' and, therefore, the requirements of the Sunshine Act do not apply to such portion of the closed session. 5 U.S.C. 552b (a) (2) and (b). See also 45 CFR 1622.2 & 1622.3.*

b. Ronald S. Flagg, President
4. Consider and act on other business
5. Public comment
6. Consider and act on adjournment of meeting

Finance Committee Agenda

Open Session

1. Approval of agenda
2. Approval of the minutes of the Committee's Open Session meeting of June 10, 2021
3. Presentation of LSC's Financial Report for the first eight months of FY 2021 ending May 31, 2021
   a. Deborah Moore, Chief Financial Officer & Treasurer
4. Report on the FY 2022 appropriations process and supplemental appropriations
   a. Carol Bergman, Vice President, Government Relations & Public Affairs
5. Consider and act on FY 2022 Temporary Operating Authority, *Resolution 2021–XXX*
6. Consider and act on FY 2023 Budget Request, *Resolution 2021–XXX*
   a. Carol Bergman, Vice President, Government Relations & Public Affairs
7. Public comment
8. Consider and act on other business
9. Consider and act on motion to adjourn the meeting

Combined Finance & Audit Committees Meeting Agenda

Open Session

1. Approval of agenda
2. Approval of the minutes of the Combined Finance and Audit Committees' Open Session meeting on April 20, 2021
3. Approval of the minutes of the Combined Finance and Audit Committees' Closed Session meeting on April 20, 2021
4. Presentation of the Fiscal Year 2020 IRS Form 990
   a. Deborah Moore, Chief Financial Officer & Treasurer
5. Public comment
6. Consider and act on other business
7. Consider and act on motion to adjourn the meeting

Audit Committee Meeting

Open Session

1. Approval of agenda
2. Approval of minutes of the Committee's Open Session Meeting on April 20, 2021
3. Briefing by the Office of Inspector General
   a. Jeffrey E. Schanz, Inspector General
   b. Roxanne Caruso, Assistant Inspector General for Audit
4. Management update regarding risk management
   a. Ronald S. Flagg, President
5. Briefing on Management/Office of Inspector General Relations
   a. Ronald S. Flagg, President
   b. Jeffrey E. Schanz, Inspector General
6. Briefing about follow-up by the Office of Compliance and Enforcement on referrals by the Office of Inspector General regarding audit reports and annual financial statement audits of grantees
   a. Lora Rath, Director, Office of Compliance and Enforcement
   b. Roxanne Caruso, Assistant Inspector General for Audit
7. Briefing on the 403(b) Audit Report
   a. Deborah Moore, Chief Financial Officer & Treasurer
8. Public comment
9. Consider and act on other business
10. Consider and act on motion to adjourn the Open Session meeting and proceed to a Closed Session

Closed Session

1. Approval of minutes of Committee's Closed Session meeting on April 20, 2021
2. Briefing by Office Compliance and Enforcement on active enforcement matter(s) and follow-up on open investigation referrals from the Office of Inspector General
   a. Lora Rath, Director, Office of Compliance and Enforcement
3. Briefing pursuant to Section VIII(C)(1) of the Committee Charter, regarding LSC's systems of internal controls that are designed to minimize the risk of fraud, theft, corruption, or misuse of funds
   a. Deborah Moore, Chief Financial Officer & Treasurer
4. Consider and act on motion to adjourn the meeting

Operations and Regulations Committee

Open Session

1. Approval of agenda
2. Approval of minutes of the Committee's Open Session meeting on April 19, 2021
3. Briefing on (a) LSC's presentation to the Administrative Conference of the United States (ACUS) Council on Federal Agency Adjudication, and (b) ACUS's recommendations on (i) periodic retrospective review of agency rules, and (ii) early input on regulatory alternatives
   a. Stefanie Davis, Senior Assistant General Counsel
4. Update on public comment on the draft Financial Guide to replace the Accounting Guide
   a. Mark Freedman, Senior Associate General Counsel
   b. Stuart Axenfeld, Deputy Director for Fiscal Compliance, Office of Compliance and Enforcement
5. Public comment
6. Consider and act on other business
7. Consider and act on motion to adjourn the meeting

Delivery of Legal Services Committee

Open Session

1. Approval of Agenda
2. Approval of Minutes of the Committee's Open Session meeting on April 19, 2021
3. Presentation on Grantee Cybersecurity
   a. Lynn Jennings, Vice President for Grants Management
   b. Jada Breegle, Chief Information Officer
4. Performance Criteria Update
   a. Lynn Jennings, Vice President for Grants Management
5. Panel Discussion: Grantee Reflections on the Impact of COVID–19 and the Path Forward
   a. Silvia Argueta, Executive Director, Legal Aid Foundation of Los Angeles
   b. Steven McGarrity, Executive Director, Community Legal Aid Services (Ohio)
   c. Karen Newton-Cole, Executive Director, Neighborhood Legal Services (Washington, DC)
   d. Brent Thompson, Executive Director, East River Legal Services (South Dakota)
   e. Moderator: Joyce McGee, Director, Office of Program Performance
6. Public comment
7. Consider and act on other business
8. Consider and act on a motion to adjourn the meeting

July 23, 2021

Institutional Advancement Committee

Open Session

1. Approval of agenda
2. Approval of minutes of the Institutional Advancement Committee's Open Session meeting on April 19, 2021
3. Update on Leaders Council and Emerging Leaders Council
4. Development report
   a. John G. Levi, Chairman of the Board
5. Update on Opioid Task Force Implementation
   a. Stefanie Davis, Senior Assistant General Counsel
6. Update on Veterans Task Force Implementation
   a. Stefanie Davis, Senior Assistant General Counsel

7. Update on Disaster Task Force Implementation
   a. Lynn Jennings, Vice President for Grants Management
8. Update on the Eviction Study and Housing Task Force Implementation
   a. Lynn Jennings, Vice President for Grants Management
9. Consider and act on Expenditure of Private Funds to Support LSC's Housing Task Force, *Resolution 2021–XXX*
10. Update on Rural Justice Task Force
   a. Marissa Jeffery, Graduate Law Fellow
11. Public comment
12. Consider and act on other business
13. Consider and act on motion to adjourn the Open Session meeting and proceed to a Closed Session

Closed Session

1. Approval of minutes of the Institutional Advancement Committee's Closed Session meeting on April 19, 2021
2. Development activities report
   a. Nadia Elguindy, Director of Institutional Advancement
3. Consider and act on motion to approve Leaders Council and Emerging Leaders Council invitees
4. Consider and act on other business
5. Consider and act on motion to adjourn the meeting

Communications Subcommittee of the Institutional Advancement Committee

Open Session

1. Approval of agenda
2. Approval of minutes of the Subcommittee's Open Session meeting on April 19, 2021
3. Communications and social media update
   a. Carl Rauscher, Director of Communications and Media Relations
   b. Carol Bergman, Vice President for Government Relations and Public Affairs
   c. Jada Breegle, Chief Information Officer
   d. Shanikka Richardson, Web Content Manager
4. Public comment
5. Consider and act on other business
6. Consider and act on motion to adjourn the meeting

Board of Directors Meeting

Open Session

1. Pledge of Allegiance
2. Approval of agenda
3. Approval of minutes of the Board's Telephonic Meeting on May 25, 2021
4. Chairman's Report
5. Members' Reports
6. President's Report
7. Inspector General's Report
8. Consider and act on the Report of the Governance and Performance Review Committee
9. Consider and act on the Report of the Operations and Regulations Committee
10. Consider and act on the Report of the Finance Committee
11. Consider and act on the Report of the Audit Committee
12. Consider and act on the Report of the Institutional Advancement Committee
13. Consider and act on the report of the Delivery of Legal Services Committee
14. Consider and act on *Resolution 2021–XXX,* In Recognition and Appreciation of Distinguished Service by Members of the LSC Veterans Task Force
15. Consider and act on *Resolution 2021–XXX,* In Recognition and Appreciation of Distinguished Service by DLA Piper
16. Public comment
17. Consider and act on other business
18. Consider and act on whether to authorize a Closed Session of the Board to address items listed below

Closed Session

1. Approval of minutes of the Board's Closed Session meeting on April 20, 2021
2. Management briefing
3. Inspector General briefing
4. Consider and act on General Counsel's report on potential and pending litigation involving LSC
5. Consider and act on prospective Leaders Council and Emerging Leaders Council invitees
6. Consider and act on motion to adjourn the meeting

CONTACT PERSON FOR INFORMATION: Jessica Wechter, Board Relations Coordinator, at (202) 295–1626. Questions may also be sent by electronic mail to *FR_NOTICE_QUESTIONS@lsc.gov.*

NON-CONFIDENTIAL MEETING MATERIALS: Non-confidential meeting materials will be made available in electronic format at least 24 hours in advance of the meeting on the LSC website, at *https://www.lsc.gov/about-lsc/board-meeting-materials.*

Dated: July 13, 2021.

Mark Freedman,

Senior Associate General Counsel.

[FR Doc. 2021–15205 Filed 7–14–21; 11:15 am]

BILLING CODE 7050–01–P

OFFICE OF MANAGEMENT AND BUDGET

2020 Standards for Delineating Core Based Statistical Areas

AGENCY: Office of Information and Regulatory Affairs, Office of Management and Budget, Executive Office of the President.

ACTION: Notice of decision.

SUMMARY: This Notice announces the adoption of 2020 Standards for Delineating Core Based Statistical Areas by the Office of Management and Budget (OMB). The 2020 standards, which reflect modest revisions to the 2010 Standards for Delineating Metropolitan and Micropolitan Statistical Areas, supersede the 2010 standards. The **SUPPLEMENTARY INFORMATION** in this Notice provides background information on the standards (Section A), a brief synopsis of the public comments OMB received in response to the January 19, 2021 **Federal Register** notice describing the recommendations of the Metropolitan and Micropolitan Statistical Area Standards Review Committee (Section B), the statement of the Standards Review Committee in response to public comment (Section C), and OMB's decisions on the recommendations of the Standards Review Committee (Section D). The 2020 standards appear at the end of this Notice (Section E).

DATES: This Notice is effective immediately. OMB plans to publish delineations of areas based on the 2020 standards and 2020 Census data in 2023. Federal agencies should begin to use the new area delineations to tabulate and publish statistics when the delineations are published.

ADDRESSES: Please send correspondence about OMB's decision to Dominic Mancini, Acting Chief Statistician and Deputy Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 9264, New Executive Office Building, Washington, DC 20503, or email *US_Chief_Statistician@omb.eop.gov* with the subject ''2020 Metro Areas.''

Electronic Availability: This notice is available on the internet from the OMB website at *https://www.whitehouse.gov/omb/information-regulatory-affairs/statistical-programs-standards/.*

FOR FURTHER INFORMATION CONTACT: Bob Sivinski, Senior Statistician, Office of Management and Budget, telephone (202) 395–1205; or email: *Statistical_Directives@omb.eop.gov.*

SUPPLEMENTARY INFORMATION:

Outline of Notice

A. Background and Review Process
B. Summary of Comments Received in Response to the Recommendations of the Standards Review Committee
C. Standards Review Committee Response to Comments
D. OMB's Decisions Regarding Changes to the 2010 Standards for Delineating Metropolitan and Micropolitan Statistical Areas
E. 2020 Standards for Delineating Core Based Statistical Areas, and Key Terms

A. Background and Review Process

1. Background

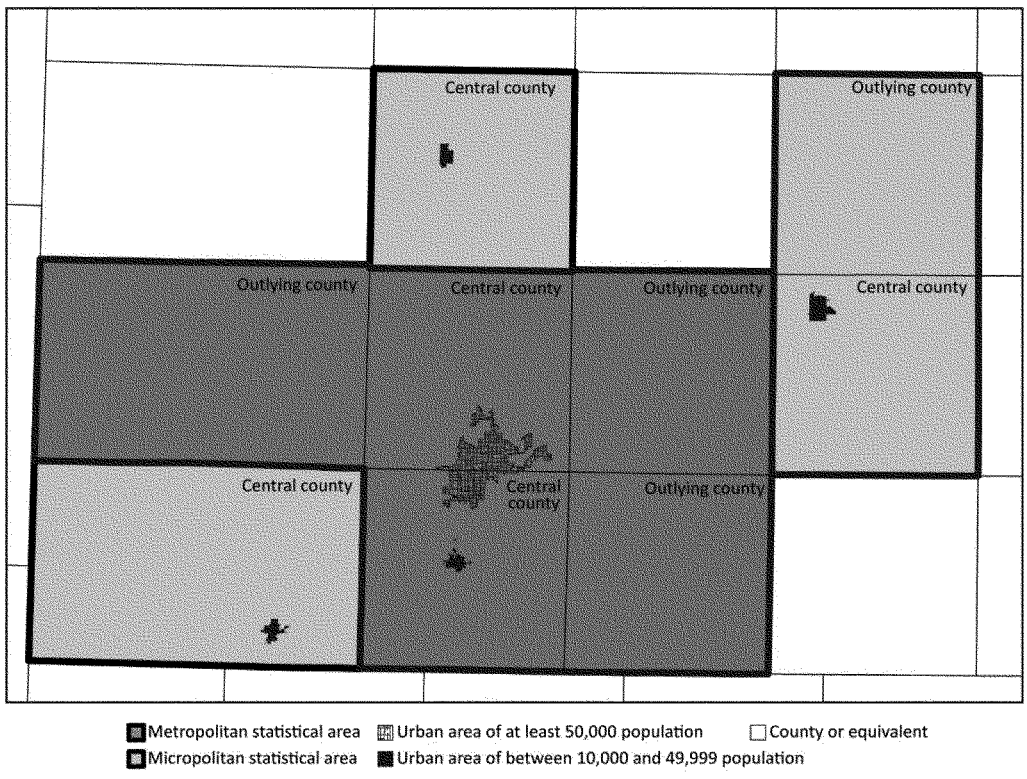
In its role as coordinator of the Federal statistical system under the *Budget and Accounting Procedures Act* of 1950 (31 U.S.C. 1104(d)) and the *Paperwork Reduction Act* of 1995 (44 U.S.C. 3504(e)), OMB is required to ensure the system's efficiency and effectiveness. A key method used by OMB to achieve this responsibility is the promulgation, maintenance, and oversight of Government-wide principles, policies, standards, and guidance concerning the development, presentation, and dissemination of Federal statistical products. OMB's Office of Statistical and Science Policy, within the Office of Information and Regulatory Affairs, relies on public comment and subject matter expertise across the Federal government to help OMB identify policies or guidance that may be out of date, lacking clarity, or inefficient.

One of the long-standing statistical standards maintained by OMB is the core based statistical areas program. This program, under various names, has provided standard statistical area delineations for approximately 70 years. In the 1940s, it became clear that the value of statistics produced by Federal agencies would be greatly enhanced if statistical agencies used a single set of geographic delineations for the Nation's largest centers of population and activity. OMB's predecessor, the Bureau of the Budget, led the effort to develop what were then called ''standard metropolitan areas'' in time for their use in 1950 census publications. Since then, comparable data products for metropolitan areas have been available.

The general concept of a core based statistical area (CBSA) is that of an area containing a large population nucleus, or urban area, and adjacent communities that have a high degree of integration with that nucleus. There are two types of CBSAs: Metropolitan statistical areas (MSAs) and micropolitan statistical areas (μSAs). Metropolitan and micropolitan statistical areas are conceptually similar to each other, but a micropolitan area features a smaller nucleus.

Both metropolitan and micropolitan statistical areas are composed of entire counties. ''Central counties'' are those that contain the population nucleus mentioned above. These nuclei are identified by a separate geographic statistical program, the urban areas program at the Census Bureau. ''Outlying counties'' qualify to join a central county based on demonstrating sufficient commuting with the central county or counties of the area. Counties that do not fall within metropolitan or micropolitan statistical areas are ''outside of a CBSA. ''

Figure 1. Representative Metropolitan and Micropolitan Statistical Areas with Urban Areas



The purpose of these statistical areas is unchanged from when standard metropolitan areas were first delineated: The classification provides a nationally consistent set of delineations for collecting, tabulating, and publishing Federal statistics for geographic areas.

OMB establishes and maintains these areas solely for statistical purposes. In reviewing and revising these areas, OMB does not take into account, or attempt to anticipate, any public or private sector nonstatistical uses of the delineations. While the use of these areas in nonstatistical programs is

relatively common, and will be discussed in more detail below as those potential impacts were the subject of the vast majority of public comments OMB received on the proposed standards, these areas are not designed for the purpose of serving as a general-purpose geographic framework applicable for use in program administration or funding formulas. If these areas are used for program administration, OMB recommends structuring the use in a way that prevents any unintended disruption that may be caused by OMB's regular review and revision of the standards.

Furthermore, the MSA and μSA delineations do not produce an urban-rural classification, and confusion of these concepts has the potential to affect the ability of a program to effectively target either urban or rural areas, if that is the program goal. Counties included in metropolitan and micropolitan statistical areas may contain both urban and rural territory and population. For instance, programs that seek to strengthen rural economies by focusing solely on counties located outside MSAs could ignore a predominantly rural county that is included in an MSA because a high percentage of the county's residents commute to urban centers for work. OMB urges agencies, organizations, and policy makers to review carefully the goals of nonstatistical programs and policies to ensure that appropriate geographic entities are used to determine the allocation of Federal funds.

2. Review Process

Periodic review of the standards is necessary to ensure their continued usefulness and relevance. Every decade OMB reviews the statistical area standards and, if warranted, revises them prior to their application to new decennial census data. The current review of the CBSA standards is the seventh such review. In 2018, OMB charged the Metropolitan and Micropolitan Statistical Area Standards Review Committee (Standards Review Committee) with examining the *2010 Standards for Delineating Metropolitan and Micropolitan Statistical Areas* (available at: *https://www.federalregister.gov/documents/2010/06/28/2010-15605/2010-standards-for-delineating-metropolitan-and-micropolitan-statistical-areas*) and providing recommendations for how to improve the standards. The Standards Review Committee is a standing committee composed of subject matter experts at the agencies that rely on the statistical areas to produce official statistics. Agencies represented on the review committee include the U.S. Census Bureau (Chair), Bureau of Economic Analysis, Bureau of Justice Statistics, Bureau of Labor Statistics, Bureau of Transportation Statistics, Economic Research Service, National Center for Health Statistics, Statistics of Income, and *ex officio,* OMB. The Census Bureau provided research support to the committee.

OMB published the Review Committee's recommendations for revisions to the 2010 standards in a **Federal Register** Notice (FRN) on January 19, 2021: ''Recommendations From the Metropolitan and Micropolitan Statistical Area Standards Review Committee to the Office of Management and Budget Concerning Changes to the *2010 Standards for Delineating Metropolitan and Micropolitan Statistical Areas*'' (86 FR 5263). The notice described six recommendations from the Standards Review Committee. The Standards Review Committee recommended that:

(1) The minimum urban area population to qualify an MSA be increased from 50,000 to 100,000;

(2) The delineation of New England city and town areas (NECTAs), NECTA divisions, and combined NECTAs be discontinued;

(3) Research be undertaken on an additional, territorially exhaustive classification that covers all of the United States and Puerto Rico;

(4) The first annual delineation update of the coming decade be combined with the decennial-based delineations;

(5) OMB should make publicly available a schedule for updates to the core based statistical areas (see proposed update schedule below); and

(6) OMB continue use of American Community Survey commuting data in measurement of intercounty connectivity, though changing societal and economic trends may warrant considering changes in the 2030 standards.

After the public comment period closed, OMB reconvened the Standards Review Committee to analyze and respond to the resulting comments. After taking into consideration public comment and the position of the Standards Review Committee, OMB is publishing this FRN to announce final decisions and the content of the *2020 Standards for Delineating Core Based Statistical Areas.* The 2020 standards replace and supersede OMB's *2010 Standards for Delineating Metropolitan and Micropolitan Statistical Areas.*

B. Summary of Public Comments Received in Response to the Review Committee's Recommendations

After removing duplicate submissions from the same senders, OMB received 848 comments in response to the Standards Review Committee's recommendations.

Recommendation 1: Raise the minimum MSA core population threshold from 50,000 to 100,000.

Seven hundred thirty-four comments remarked on Recommendation 1, increasing the minimum population threshold of an urban area to qualify an MSA from 50,000 to 100,000, with 21 in favor (5 of which conditionally agreed with additional suggestions regarding population thresholds) and 712 opposed. In addition, there was one comment that was neutral toward Recommendation 1.

Many of the comments opposing Recommendation 1 did not provide a rationale for their opposition. Of the commenters who did cite a rationale for their opposition, almost all cited a nonstatistical rationale, such as concerns about loss of federal or other funding; concerns about other programmatic consequences; and concerns about economic development for individual areas that would be reclassified from metropolitan to micropolitan. Some comments cited both nonstatistical and statistical rationales, such as concerns about potential loss of data for individual areas that would be reclassified from a metropolitan to a micropolitan statistical area; concerns about long term data analysis and longitudinal analysis if such a change led to a break in data series or the type of statistics collected and produced at this level of geographic area; concern that the recommended change was too modest to justify making any change; failure to consider another approach (such as adding a top size class using some definition of the ''largest'' areas); and perceived failure on behalf of the Standards Review Committee to show a sufficient rationale for doubling the current threshold. A few of the comments presented a purely statistical rationale.

Twenty-one comments were in favor of raising the minimum population threshold of an urban area to qualify an MSA from 50,000 to 100,000. Five of these comments offered additional suggestions, such as modifying the minimum population to qualify a μSA.

Recommendation 2: Discontinue Updates to the New England City and Town Areas, New England City and

Town Area Divisions, and Combined New England City and Town Areas.

Ten comments remarked on Recommendation 2, the discontinuation of New England City and Town Area delineations, with three in favor, two neutral, and five opposed to the recommendation.

Among points cited by those opposed to Recommendation 2 were the relative prominence of cities and towns (as opposed to counties) in the six New England states, and concerns about impact of the recommendation on data availability and longitudinal data analysis.

An argument in favor of the recommendation advocated against providing special treatment to one region of the country.

Recommendation 3: Launch a research effort into delineating territorially exhaustive areas.

Seven comments remarked on Recommendation 3 concerning research into developing a set of territorially exhaustive areas. All seven comments were in favor of the recommendation, with one of the comments also in favor of delineation of areas in United States Island Areas, in addition to the United States and Puerto Rico. Comments offered technical suggestions on different means of delineating the territory of the United States and Puerto Rico, such as the use of Bureau of Economic Analysis (BEA) Economic Areas, United States Department of Agriculture (USDA) commuting zones, USDA data, regional intergovernmental organizations, and substate districts.

Recommendation 4: Incorporate the results of the decade's first annual update review into the results of the decade's decennial census-based update.

Eight comments remarked on Recommendation 4 concerning combining the publication of the first annual delineation update with the decennial-based redelineation, with three in favor (with one comment not wanting any updates during the decade except this one). An argument in favor was to minimize statistical area churn in the inventory.

Five comments expressed general concerns about OMB conducting updates during the decade, but did not provide a specific opinion on this particular recommendation to combine the annual and decennial updates.

Recommendation 5: Establish a Publicly Available Update Schedule.

Two comments remarked on Recommendation 5, which involved establishing and publishing a public schedule for the release of delineations and updates. The two comments were both in favor of publishing an update schedule. An argument in favor was increased transparency and predictability.

Recommendation 6: Continue use of American Community Survey commuting data to measure intercounty connectivity.

There was a total of 45 comments on Recommendation 6, concerning the continued use of American Community Survey (ACS) commuting data for the 2023 delineations.

Forty-one comments discussed Recommendation 6, while simultaneously arguing for an outcome for a specific area or set of areas. Suggestions for additional or alternative datasets included the commodity flow survey (Bureau of Transportation Statistics), shopping and transaction data, the Longitudinal Employer-Household Dynamics (Census Bureau), new modes of transportation, and geographic proximity between cities.

Two of the four remaining comments offered support for the recommendation (with one suggesting that other data may be needed to determine if areas should change during the mid-decade update), and two provided suggestions for other datasets, such as primary care service areas and other measures of economic activity.

A few comments not included in this count suggested specific changes to how the ACS commuting data are used in the standards, such as modifying commuting thresholds, without discussing whether the ACS data should continue to be used or what other sources of data might replace or supplement it.

Other Comments

The remaining comments mostly raised issues outside of the scope of the request, in that they were directed at specific applications of the standards, and did not offer recommendations that were relevant to the potential modification of the standards themselves. Several comments expressed concern about the current configuration of one or more metropolitan areas and requested changes. For example, forty-two comments requested modification to the components of the Evansville, IN-KY metropolitan area; two comments requested modification to the components of the Idaho Falls, ID metropolitan area, and one comment requested modification to the components of the Sioux City, IA-NE-SD metropolitan area. Five comments requested using subcounty units to possibly identify a separate area within the current Riverside-San Bernardino-Ontario, CA metropolitan area. Other comments requested different arrangements of multiple metropolitan areas, including three comments concerning merging the Raleigh-Cary, NC and Durham-Chapel Hill, NC metropolitan areas, and one comment concerning merging the Greenville-Anderson, SC and Spartanburg, SC metropolitan areas.

C. Standards Review Committee Response to Comments

After the close of the public comment period, OMB reconvened the Standards Review Committee and asked them to provide a statement on their earlier recommendations, taking into account the public comments received and potential impacts of the coronavirus pandemic. The Standards Review Committee statement reads, in its entirety:

''The Committee subscribes without reservation to the view that federal statistical standards require regular review and sometimes revision to stay abreast of the phenomena they describe. Over the course of nearly ten months, the Committee reviewed the ''*2010 Standards for Delineating Metropolitan and Micropolitan Statistical Areas,*'' and, in the end, it recommended six revisions to OMB. Now, the Committee also has examined public comment received on those recommendations.''

''Each of the recommendations followed from thoughtful consideration and discussion, both within the Committee and with a panel of external experts. In addition, nearly all of the topics addressed in the recommendations were familiar from Committee discussions in previous reviews of the standards.''

''Having reviewed the public comment, the Committee stands by five of its six recommendations but now recommends that action on the first of those recommendations—regarding the minimum population core size for metropolitan statistical areas—be delayed pending completion of additional research on the topic.''

''*Reviewing the public comment.* Public comment received on Recommendations 2 through 6 generally was supportive or offered no counter-arguments that the Committee found sufficiently compelling to change its earlier views. In general, these recommendations generated modest amounts of comment. Implementing these recommendations will improve the performance of the program in the near term, lay the foundation for improved data availability in the future, and increase transparency and usability.''

''Recommendation 1, on the other hand, received substantial comment, and that comment raised a number of concerns of potential importance to the federal statistical system. One such concern focused on a possible reduction in federal statistical data available for areas that would change status from metropolitan statistical areas to micropolitan statistical areas as a result of an increased core population requirement. Another concern was with discontinuities in longitudinal federal statistical data series that could come with a changed population requirement.''

''A third identified statistical issue relative to Recommendation 1 focused on the size of the recommended core population requirement increase (from 50,000 to 100,000). For some, that increase—if needed at all—was viewed as too large; on the other side, there were indications of dissatisfaction that the Committee did not consider alternative or larger changes to address the wide range of core populations currently covered within the category of ''metropolitan.'' Finally, public comment challenged the Committee to justify more clearly its Recommendation 1 with documented research results.''

''*Next steps.* The Committee now recommends OMB's delaying action on Recommendation 1 in order to complete further analysis and research. A side benefit of this work is that it might help to reassure data users that appropriate consideration has been invested in a key change to the standards.''

''With assistance from the statistical agencies, OMB could, with medium level of effort, address two of the concerns raised about Recommendation 1:

- Provide a thorough assessment of the anticipated effects of a changed minimum core population size on federal statistical data availability, reviewing possible effects in individual data programs across the full set of statistical agencies.
- Conduct an analysis of changes in thresholds in other statistical programs over the years to provide guidance on mitigating discontinuities in time series data. Programs change requirements with different frequencies and using different approaches. The fact that this program has held the minimum metropolitan statistical area core population size constant in the name of stability for an extended period should not permanently preclude adjustments to fit changed circumstances.''

''Robust examination of the appropriate size for an increase in required core population for metropolitan statistical areas as well as associated, derived area classification issues will require a more extensive effort. Experience suggests these tasks would be addressed most effectively by a combination of statistical agency research and two to three external research projects. Those projects would analyze evolving U.S. central place hierarchies and economic agglomeration thresholds during the period 1940–2020. Also, consideration should be given to including within the scope of these research projects an examination of changed commuting patterns (pertinent to Recommendation 6, in light of changes in commuting behavior associated with the COVID–19 pandemic that occurred after the Committee had submitted its recommendations). This work would best take place between late 2023 (once new statistical areas are delineated based on 2020 data) and the end of 2025 so results would be available to OMB and the Committee in early 2026. By 2023, the lasting effects of the pandemic on journey to work should have started becoming clearer.''

''(In the interest of smoothing resource demands for research over the decade, conducting the groundwork on approaches to preparing territorially exhaustive statistical areas (Recommendation 3) can follow and benefit from the work on core size and commuting data and should be scheduled to start in 2026 and conclude in 2028.)''

''*Final thought.* In view of the considerable volume of public comment addressing issues extraneous to the purpose of the metropolitan and micropolitan statistical areas program, the Committee urges OMB to assume a more assertive posture in reiterating through various available channels the value and role of this federal statistical standard. Part of that effort will require continued efforts to educate nonstatistical program users of the limitations of these statistical areas to meet their programs' needs; the other side of the effort will be to ensure that federal statistical agencies and programs are taking full advantage of the areas to disseminate data for the benefit of data users. The success of the program depends in part on the continued demonstration of its usefulness across the federal statistical system.''

—Metropolitan and Micropolitan Statistical Area Standards Review Committee

D. OMB's Decisions Regarding Changes to the 2010 Standards for Delineating Metropolitan and Micropolitan Statistical Areas

This section of the Notice presents the decisions OMB made on the Standards Review Committee's recommendations. In arriving at these decisions, we considered the Standards Review Committee's recommendations, the public comments we received on those the Standards Review Committee's recommendations, and the Standards Review Committee's subsequent statement in Section C.

OMB also benefited from the continued and thorough deliberations of the statistical experts that constitute the Standards Review Committee, as well as the research and analytic support provided by the Census Bureau. As in past reviews of the standards, we relied upon the technical and subject-matter expertise, insight, and dedication of the Standards Review Committee members. We sincerely appreciate these contributions to the rigor, objectivity, and usefulness of the CBSA program, and offer special thanks to the invaluable support of the Population Division at the Census Bureau.

OMB's decisions on each of the Review Committee's recommendations are discussed below. OMB did not make any substantive changes to the 2010 standards beyond the revisions discussed in this section.

Recommendation 1: Raise the minimum MSA core population threshold from 50,000 to 100,000.

OMB Decision: OMB does not accept the initial recommendation to raise the MSA core population threshold in the 2020 standards, and has decided to leave the current threshold of 50,000 in place. A change to the fundamental criteria that determine whether an area is considered metropolitan would cause disruption to statistical programs and products, and would be difficult for the statistical agencies to implement. OMB decided that there is insufficient justification at this time to raise the threshold to 100,000 and that further research is necessary before deciding whether to change the criteria that determine whether an area is considered metropolitan. Finally, we also note the Standard Review Committee's subsequent modification of their initial recommendation recognizing the value of additional research before modifying the threshold.

We acknowledge the Standards Review Committee's concern that the MSA thresholds have not kept pace with population growth, which affects the ability of the CBSA program to meet

its intended purpose of identifying the primary centers of population and economic activity in the United States for use in official statistics. OMB commits to working with the Standards Review Committee to conduct research and stakeholder outreach over the next four years to closely examine the utility of the current requirements for an area to qualify as an MSA, and for outlying counties to join an MSA (See Recommendation 6). This research will be guided by the MSA program's primary goal of identifying the major centers of population and economic activity of the United States, and will include exploring different frameworks and data sources for classifying metropolitan areas, including alternate core population thresholds, features and amenities of areas, evolving U.S. central place hierarchies, potential economic thresholds, and other topics identified by the Standards Review Committee or outside experts. The Standards Review Committee will advise OMB on the impact of any potential revisions on the statistical products released by their agencies.

Recommendation 2: Discontinue Updates to the NECTAs, NECTA Divisions, and Combined NECTAs.

OMB Decision: OMB accepts this recommendation, and the conclusion of the Committee that the significant complexity generated by maintaining these areas is not justified by their use in Federal statistical products and programs.

We recognize that NECTAs are more granular than county-based CBSAs, and more closely reflect the functional local government structure in New England. However, Federal statistical programs often do not release two sets of data for both NECTAs and MSAs in the New England states, because doing so would create unacceptable risk of disclosure or reidentification. As a result, several statistical programs currently release data by NECTAs in New England and by county-based CBSAs for the rest of the country. This practice is contrary to the intent of the standards to provide a nationally consistent geographic framework. After consulting with the Bureau of Labor Statistics, which is the primary user of these areas, OMB is confident that BLS programs can continue to release high quality and useful statistics across the country. This decision will not affect the release of BLS products at finer geographic scales, such as the release of Local Area Unemployment Statistics data by minor civil division.

Recommendation 3: Launch a research effort into delineating territorially exhaustive areas.

OMB Decision: OMB accepts this recommendation. The CBSA program currently does not delineate a large portion of U.S. territory. A territorially exhaustive delineation would increase the utility of the CBSA program and improve coordination of Federal statistics. OMB commits to working with the Review Committee on the plans for the research necessary to provide a robust, exhaustive delineation of the United States and Puerto Rico.

Recommendation 4: Incorporate the results of the decade's first annual update review into the results of the decade's decennial census-based update.

OMB Decision: OMB accepts this recommendation. As background, on an annual basis and according to the standards, OMB makes small changes, generally to just a few MSAs, based on annual updates to the Census population data used to determine a county's CBSA status. In the past a small number of counties experienced change in delineation status between the comprehensive, decennial delineations issued in the third year after the Decennial Census and in the subsequent annual update that follows, due in part to the different geographic units used in the decennial update and annual updates. The Committee believes this has led to unnecessary uncertainty and instability in the program. Implementing this recommendation will improve the consistency of the areas with negligible impact on timing or resources.

Recommendation 5: Establish a Publicly Available Update Schedule.

OMB Decision: OMB accepts this recommendation. To increase transparency and consistency, we have provide a high level, preliminary schedule below, and will publish and maintain a schedule of upcoming CBSA delineations and updates on our Statistical Policies and Programs web page (*https://www.whitehouse.gov/omb/information-regulatory-affairs/statistical-programs-standards/*). Because the timing of OMB updates depends in part on the timing of delivery of the inputs by the Census Bureau, we also intend to include the input dates into this schedule. If OMB is unable to meet the public update schedule, we will notify the public as soon as feasible through the web page.

As described in the final 2020 standards in Section E, OMB will release three different types of updates. (1) Annual Updates—These updates would address qualification of new metropolitan and micropolitan statistical areas and typically would affect a small number of counties. (In some years, there may be no updates warranted by the data.) (2) Five-Year (''mid-decade'') Update—This broader update would include: Qualification of metropolitan and micropolitan statistical areas, qualification of outlying counties, merging of adjacent metropolitan or micropolitan statistical areas, qualification of principal cities, categorization of metropolitan and micropolitan statistical areas, qualification of metropolitan divisions, qualification of combined statistical areas, and titling of metropolitan and micropolitan statistical areas, metropolitan divisions, and combined statistical areas. (3) Decennial Delineation—The initial re-delineation following adoption of revised standards would include all of the changes listed for the five-year update, plus the qualification of central counties.

Update type	Release date
Decennial Delineation	June 2023.
Annual Update	December 2024.
Annual Update	December 2025.
Annual Update	December 2026.
Annual Update	December 2027.
Five-Year Update	December 2028.
Annual Update	December 2029.

Recommendation 6: Continue use of American Community Survey commuting data to measure intercounty connectivity.

OMB Decision: OMB accepts this recommendation for the 2020 standards. We note that changes in commuting behavior as a result of the pandemic could result in a reduction in the five-year average ACS estimates of commuting which will contribute to the planned CBSA update in 2028. This anticipated reduction could result, if no other adjustments are made, in a large number of outlying counties getting dropped from their CBSAs, at least until the next time commuting data is updated in 2033.

OMB recognizes that the pandemic's impact on commuting patterns may create an acute challenge for the 2028 mid-decade update, as well as a longer-term challenge for the continued use of ACS commuting data as the sole measure of intercounty connectivity and economic integration. We especially recognize the importance of additional research in this area in light of the changing nature of work patterns, which the pandemic may have accelerated, and other ways in which geography and economic activity interact.

To that end, OMB will reconvene the Standards Review Committee to conduct a full review of intercounty connectivity measures before 2028, and to advise OMB on whether pandemic-

related changes in commuting patterns warrant any adjustments to the standards prior to the mid-decade update in 2028 to minimize the risk of unintended and potentially temporary pandemic-related changes to the CBSAs in 2028. In addition, we expect that the scope of this research will also encompass whether other measures of economic activity may be useful in the identification of CBSAs, and position OMB to ensure that the standards for including outlying counties in CBSAs are robust and meaningful.

E. 2020 Standards for Delineating Core Based Statistical Areas, and Key Terms

A Core Based Statistical Area (CBSA) is a geographic entity associated with at least one core of 10,000 or more population, plus adjacent territory that has a high degree of social and economic integration with the core as measured by commuting ties. The standards delineate two categories of CBSAs: Metropolitan statistical areas (MSAs) and micropolitan statistical areas (μSAs). CBSAs consist of counties and equivalent entities throughout the United States and Puerto Rico. Throughout these standards, the term ''county'' is used to refer to counties and county-equivalents.

The purpose of the CBSA standards is to provide nationally consistent delineations for collecting, tabulating, and publishing Federal statistics for a set of geographic areas. The Office of Management and Budget establishes and maintains these areas solely for statistical purposes as part of their statutory responsibilities to coordinate and ensure the efficiency and effectiveness of the Federal statistical system.

CBSAs are not designed as a geographic framework for nonstatistical activities or for use in program funding formulas. The CBSA classification is not an urban-rural classification; MSAs, μSAs, and many counties outside CBSAs contain both urban and rural populations.

The following criteria apply to all CBSAs nationwide. Commuting and employment estimates are derived from the Census Bureau's American Community Survey. Whenever American Community Survey commuting and employment data are referred to below, the criteria use point estimates and do not incorporate a measure of sampling variability of the estimates.

Section 1. Population Size Requirements for Qualification of Core Based Statistical Areas

Each CBSA must have a Census Bureau-delineated Urban Area of at least 10,000 population.

Section 2. Central Counties

The central county or counties of a CBSA are those counties that:

(a) Have at least 50 percent of their population in Urban Areas of at least 10,000 population; or

(b) Have within their boundaries a population of at least 5,000 located in a single Urban Area of at least 10,000 population.

A central county is associated with the Urban Area that accounts for the largest portion of the county's population. The central counties associated with a particular Urban Area are grouped to form a single cluster of central counties for purposes of measuring commuting to and from potentially qualifying outlying counties.

Section 3. Outlying Counties

A county qualifies as an outlying county of a CBSA if it meets the following commuting requirements:

(a) At least 25 percent of the workers living in the county work in the central county or counties of the CBSA; or

(b) At least 25 percent of the employment in the county is accounted for by workers who reside in the central county or counties of the CBSA.

A county may be included in only one CBSA. If a county qualifies as a central county of one CBSA and as outlying in another, it falls within the CBSA in which it is a central county. A county that qualifies as outlying to multiple CBSAs falls within the CBSA with which it has the strongest commuting tie, as measured by either 3(a) or 3(b) above. The counties included in a CBSA must be contiguous; if a county is not contiguous with other counties in the CBSA, it will not fall within the CBSA.

Section 4. Merging of Adjacent Core Based Statistical Areas

Two adjacent CBSAs will merge to form one CBSA if the central county or counties (as a group) of one CBSA qualify as outlying to the central county or counties (as a group) of the other CBSA using the measures and thresholds stated in 3(a) and 3(b) above.

Section 5. Identification of Principal Cities

The principal city (or cities) of a CBSA will include:

(a) The largest incorporated place with a 2020 Census population of at least 10,000 in the CBSA or, if no incorporated place of at least 10,000 population is present in the CBSA, the largest incorporated place or census designated place in the CBSA; and

(b) Any additional incorporated place or census designated place with a 2020 Census population of at least 250,000 or in which 100,000 or more persons work; and

(c) Any additional incorporated place or census designated place with a 2020 Census population of at least 50,000, but less than 250,000, and in which the number of workers working in the place meets or exceeds the number of workers living in the place; and

(d) Any additional incorporated place or census designated place with a 2020 Census population of at least 10,000, but less than 50,000, and at least one-third the population size of the largest place, and in which the number of workers working in the place meets or exceeds the number of workers living in the place.

Section 6. Categories and Terminology

A CBSA is categorized based on the population of the largest Urban Area within the CBSA. Categories of CBSAs are: Metropolitan statistical areas, based on Urban Areas of 50,000 or more population, and micropolitan statistical areas, based on Urban Areas of at least 10,000 population but less than 50,000 population. Counties that do not fall within CBSAs will represent ''outside core based statistical areas.''

Section 7. Divisions of Metropolitan Statistical Areas

An MSA containing a single Urban Area with a population of at least 2.5 million may be subdivided to form smaller groupings of counties referred to as metropolitan divisions. A county qualifies as a ''main county'' of a metropolitan division if 65 percent or more of workers living in the county also work within the county and the ratio of the number of workers working in the county to the number of workers living in the county is at least 0.75. A county qualifies as a ''secondary county'' if 50 percent or more, but less than 65 percent, of workers living in the county also work within the county and the ratio of the number of workers working in the county to the number of workers living in the county is at least 0.75.

A main county automatically serves as the basis for a metropolitan division. For a secondary county to qualify as the basis for forming a metropolitan division, it must join with either a contiguous secondary county or a contiguous main county with which it has the highest employment interchange

measure of 15 or more (where the employment interchange measure is the sum of the percentage of workers living in the smaller entity who work in the larger entity and the percentage of employment in the smaller entity that is accounted for by workers who reside in the larger entity). After all main counties and secondary counties are identified and grouped (if appropriate), each additional county that already has qualified for inclusion in the MSA falls within the metropolitan division associated with the main/secondary county or counties with which the county at issue has the highest employment interchange measure. Counties in a metropolitan division must be contiguous.

Section 8. Combining Adjacent Core Based Statistical Areas

(a) Any two adjacent CBSAs will form a combined statistical area if the employment interchange measure between the two areas is at least 15.

(b) The CBSAs thus combined will also continue to be recognized as individual CBSAs within the combined statistical area.

Section 9. Titles of Core Based Statistical Areas, Metropolitan Divisions, and Combined Statistical Areas

(a) The title of a CBSA will include the name of its principal city with the largest 2020 Census population. If there are multiple principle cities, the names of the second-largest and (if present) third-largest principle cities will appear in the title in order of descending population size. If the principal city with the largest 2020 Census population is a census designated place, the name of the largest incorporated place of at least 10,000 population that also is a principal city will appear first in the title followed by the name of the census designated place. If the principal city with the largest 2020 Census population is a census designated place, and there is no incorporated place of at least 10,000 population that also is a principal city, the name of that census designated place principal city will appear first in the title.

(b) The title of a metropolitan division will include the name of the principal city with the largest 2020 Census population located in the metropolitan division. If there are multiple principle cities, the names of the second-largest and (if present) third-largest principle cities will appear in the title in order of descending population size. If there are no principle cities located in the metropolitan division, the title of the metropolitan division will use the names of up to three counties in order of descending 2020 Census population size.

(c) The title of a combined statistical area will include the names of the two largest principle cities in the combination and the name of the third-largest principal city, if present. If the combined statistical area title duplicates that of one of its component CBSAs, the name of the third-most-populous principal city will be dropped from the title of the Combined Statistical Area.

(d) Titles also will include the names of any State in which the area is located.

Section 10. Updating Schedule

(a) The Office of Management and Budget will delineate CBSAs in 2023 based on 2020 Census data and 2016–2020 American Community Survey five-year estimates. Release of these delineations will take place during June 2023.

(b) In the 2023 delineations and in subsequent years, the Office of Management and Budget will designate a new μSA if:

(1) A city that is outside any existing CBSA has a Census Bureau special census count of 10,000 to 49,999 population, or a population estimate of 10,000 to 49,999 for two consecutive years from the Census Bureau's Population Estimates Program, or

(2) A Census Bureau special census results in the delineation of an Urban Area of 10,000 to 49,999 population that is outside of any existing CBSA.

(c) Also in the 2023 delineations and in subsequent years, the Office of Management and Budget will designate a new MSA if:

(1) A city that is outside any existing MSA has a Census Bureau special census count of 50,000 or more population, or a population estimate of 50,000 or more for two consecutive years from the Census Bureau's Population Estimates Program, or

(2) A Census Bureau special census results in the delineation of an Urban Area of 50,000 or more population that is outside of any existing MSA.

(d) Outlying counties of CBSAs that qualify in this section will qualify according to the criteria in Section 3 above, on the basis of American Community Survey five-year commuting estimates.

(e) OMB will review the delineations of all existing CBSAs and related statistical areas in 2028 using 2021–2025 five-year commuting and employment estimates from the Census Bureau's American Community Survey. The Urban Areas used in these delineations will be those based on 2020 Census data or subsequent special censuses for which Urban Areas are created. The central counties of CBSAs identified on the basis of a 2020 Census population count, or on the basis of population estimates from the Census Bureau's Population Estimates Program or a special census count in the case of postcensally delineated areas, will constitute the central counties for purposes of these area delineations. New CBSAs will be designated in 2028 on the basis of Census Bureau special census counts or population estimates as described above in Sections 10(b) and 10(c); outlying county qualification will be based on five-year commuting estimates from the American Community Survey.

(f) Other aspects of the CBSA delineations are not subject to change between decennial censuses.

(g) OMB will issue delineation updates (one per year in those years when there is an update) in years other than 2023 during December.

(h) OMB will maintain a publicly available release schedule for these updates on its statistical programs and standards web page (*https://www.whitehouse.gov/omb/information-regulatory-affairs/statistical-programs-standards/*). Any delays will be announced on the website as soon as possible, along with an updated release date.

Section 11. Definitions of Key Terms

Census designated place—A statistical geographic entity that is analogous to an incorporated place, delineated for the decennial census and consisting of a locally recognized, unincorporated concentration of population that is identified by name.

Central county—The county or counties of a Core Based Statistical Area containing a substantial portion of an Urban Area, and to and from which commuting is measured to determine qualification of outlying counties.

Combined Statistical Area—A geographic entity consisting of two or more adjacent Core Based Statistical Areas with employment interchange measures of at least 15.

Core—A densely settled concentration of population, comprising an Urban Area (of 10,000 or more population) delineated by the Census Bureau, around which a Core Based Statistical Area is delineated.

Core Based Statistical Area (CBSA)—A statistical geographic entity consisting of the county or counties associated with at least one core (Urban Area) of at least 10,000 population, plus adjacent counties having a high degree of social and economic integration with the core as measured through commuting ties

with the counties containing the core. Metropolitan and micropolitan statistical areas are the two categories of core based statistical areas.

Delineation—The establishment of the boundary of a statistical area, or the boundary that results.

Employment interchange measure—A measure of ties between two adjacent entities. The employment interchange measure is the sum of the percentage of workers living in the smaller entity who work in the larger entity and the percentage of employment in the smaller entity that is accounted for by workers who reside in the larger entity.

Geographic building block—The geographic unit, such as a county, that constitutes the basic geographic component of a statistical area.

Main county—A county that acts as an employment center within a CBSA that has a core with a population of at least 2.5 million. A main county serves as the basis for delineating a metropolitan division.

Metropolitan Division—A county or group of counties within a CBSA that contains an Urban Area with a population of at least 2.5 million. A metropolitan division consists of one or more main/secondary counties that represent an employment center or centers, plus adjacent counties associated with the main/secondary county or counties through commuting ties.

Metropolitan Statistical Area (MSA)—A Core Based Statistical Area associated with at least one Urban Area that has a population of at least 50,000. The MSA comprises the central county or counties containing the core, plus adjacent outlying counties having a high degree of social and economic integration with the central county or counties as measured through commuting.

*Micropolitan Statistical Area (*μ*SA)*—A Core Based Statistical Area associated with at least one Urban Area that has a population of at least 10,000, but less than 50,000. The μSA comprises the central county or counties containing the core, plus adjacent outlying counties having a high degree of social and economic integration with the central county or counties as measured through commuting.

Outlying county—A county that qualifies for inclusion in CBSA on the basis of commuting ties with the CBSA's central county or counties.

Outside Core Based Statistical Areas—Counties that do not qualify for inclusion in a CBSA.

Principal City—The largest city of a CBSA, plus additional cities that meet specified statistical criteria.

Secondary county—A county that acts as an employment center in combination with a main county or another secondary county within a CBSA that has a core with a population of at least 2.5 million. A secondary county may serve as the basis for delineating a metropolitan division, but only when combined with a main county or another secondary county.

Urban Area— A statistical geographic entity delineated by the Census Bureau, which represents densely developed territory, and encompasses residential, commercial, and other non-residential urban land uses. For purposes of delineating MSAs, at least one Urban Area of 50,000 or more population is required; for purposes of delineating μSAs, at least one Urban Area of 10,000 to 49,999 population is required.

Sharon Block,

Acting Administrator, Office of Information and Regulatory Affairs.

[FR Doc. 2021–15159 Filed 7–13–21; 5:15 pm]

BILLING CODE 3110–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2021–111 and CP2021–113; MC2021–112 and CP2021–114]

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 a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* July 20, 2021.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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I. Introduction
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I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3011.301.[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 3030, and 39 CFR part 3040, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3040, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* MC2021–111 and CP2021–113; *Filing Title:* USPS Request to Add Priority Mail & First-Class Package Service Contract 199 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* July 12, 2021; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Kenneth R. Moeller; *Comments Due:* July 20, 2021.

2. *Docket No(s).:* MC2021–112 and CP2021–114; *Filing Title:* USPS Request

[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).

to Add Priority Mail Express, Priority Mail & First-Class Package Service Contract 74 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* July 12, 2021; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Kenneth R. Moeller; *Comments Due:* July 20, 2021.

This Notice will be published in the **Federal Register**.

Erica A. Barker,

Secretary.

[FR Doc. 2021–15125 Filed 7–15–21; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 34328; 812–15240]

DoubleLine Opportunistic Credit, et al;

July 13, 2021.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice.

Notice of an application under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from section 19(b) of the Act and rule 19b–1 under the Act to permit registered closed-end investment companies to make periodic distributions of long-term capital gains more frequently than permitted by section 19(b) or rule 19b–1.

Summary of Application: Applicants request an order to permit certain registered closed-end management investment companies to pay as frequently as twelve times in any one taxable year in respect of its common stock and as often as specified by, or determined in accordance with the terms of, any preferred stock issued by the investment company subject to the terms and conditions stated in the application.

Applicants: DoubleLine Opportunistic Credit Fund, DoubleLine Income Solutions Fund, DoubleLine Yield Opportunities Fund, DoubleLine Shiller CAPE Enhanced Income Fund, DoubleLine Capital LP, and DoubleLine Alternatives LP.

Filing Dates: The application was filed on June 23, 2021.

Hearing or Notification of Hearing: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on August 6, 2021, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090; Applicants, 390 Park Avenue, 15th Floor, NY, NY 10022.

FOR FURTHER INFORMATION CONTACT: Lisa Reid Ragen, Branch Chief, at (202) 551–6825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: For Applicants' representations, legal analysis, and condition, please refer to Applicants' application, dated June 23, 2021, which may be obtained via the Commission's website by searching for the file number, using the Company name box, at *http://www.sec.gov/search/search.htm,* or by calling (202) 551–8090.

For the Commission, by the Division of Investment Management, under delegated authority.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–15165 Filed 7–15–21; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 92373; File No. SR–NYSE–2020–93]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Partial Amendment No. 2 and Order Granting Accelerated Approval To Proposed Rule Change, as Modified by Partial Amendment No. 2, To Amend NYSE Rules 7.35 and 7.35A

July 12, 2021.

I. Introduction

On November 3, 2020, New York Stock Exchange LLC (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend Rule 7.35 regarding dissemination of Auction Imbalance Information if a security is an IPO or Direct Listing and has not had its IPO Auction or Direct Listing Auction, and Rule 7.35A regarding DMM consultations in connection with an IPO or Direct Listing. The proposed rule change was published for comment in the **Federal Register** on November 17, 2020.[3] On December 18, 2020, the Commission extended to February 15, 2020, the time period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to approve or disapprove the proposed rule change.[4]

On February 12, 2021, the Commission instituted proceedings under Section 19(b)(2)(B) of the Act[5] to determine whether to approve or disapprove the proposal.[6] On April 9, 2021, the Exchange filed Amendment No. 1 to the proposed rule change. On May 7, 2021, the Commission extended the time period for approving or disapproving the proposal for an additional 60 days until July 15, 2021.[7] On May 11, 2021, the Exchange withdrew Partial Amendment No. 1 and filed Partial Amendment No. 2 to the proposal for inclusion in the public comment file.[8] The Commission has not received comments on the proposed rule change, as modified by Partial Amendment No. 2.

The Commission is publishing this notice to solicit comment on Partial Amendment No. 2 to the proposed rule change from interested persons, and is approving the proposed rule change, as modified by Partial Amendment No. 2, on an accelerated basis.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 90387 (Nov. 10, 2020), 85 FR 73322 (Nov. 17, 2020) (''Notice'').

[4] *See* Securities Exchange Act Release No. 90723 (Dec. 18, 2020), 85 FR 84446 (Dec. 28, 2020).

[5] 15 U.S.C. 78s(b)(2)(B).

[6] *See* Securities Exchange Act Release No. 91121, (Feb. 12, 2021), 86 FR 10386 (Feb. 19, 2021) (''Order Instituting Proceedings'').

[7] *See* Securities Exchange Act Release No. 91791 (May 7, 2021), 86 FR 26110 (May 12, 2021).

[8] In Partial Amendment No. 2, the Exchange proposes to (1) update NYSE Rule 7.35A(g)(1) in Exhibit 5 of the proposal to incorporate the term ''Selling Shareholder Direct Floor Listing'' to reflect the text of NYSE Rule 7.35A(g)(1) as recently amended, and (2) provide additional background for the proposal in response to the Commission's request for comment in the Order Instituting Proceedings. *See* Letter from Martha Redding, Associate General Counsel, NYSE LLC to Secretary, Commission (May 11, 2021). Partial Amendment No. 2 is available at *https://www.sec.gov/comments/sr-nyse-2020-93/srnyse202093-8785691-237727.pdf.*

II. Description of the Proposal, As Modified by Partial Amendment No. 2[9] and Order Instituting Proceedings

A. Description of the Proposal As Modified by Partial Amendment No. 2

The Exchange proposes to (1) amend NYSE Rule 7.35 to make permanent that the Exchange would disseminate Auction Imbalance Information if a security is an IPO or Direct Listing and has not had its IPO Auction or Direct Listing Auction, and (2) amend NYSE Rule 7.35A regarding DMM consultations in connection with an IPO Auction or Direct Listing Auction.[10]

NYSE Rule 7.35—Auction Imbalance Information

The Exchange proposes to make permanent that the Exchange would disseminate Auction Imbalance Information if a security is an IPO or Direct Listing[11] and has not had its IPO Auction or Direct Listing Auction.[12] The Exchange states that disseminating Auction Imbalance Information in advance of an IPO Auction or Direct Listing Auction would promote transparency in advance of these Auctions, which would benefit investors and other market participants.[13]

As part of the proposed change, the Exchange proposes that the Imbalance Reference Price for determining the Auction Imbalance Information for either an IPO Auction or a Direct Listing Auction would be determined in the same manner as currently provided for under the temporary Commentaries .01 and .02 to NYSE Rule 7.35, respectively.[14] Specifically, the Imbalance Reference Price for determining the Auction Imbalance Information for a Core Open Auction under NYSE Rule 7.35A(e)(3) is the Consolidated Last Sale Price, bound by the bid and offer of any published pre-opening indication.[15] Because the definition of Imbalance Reference Price does not currently specify what the Consolidated Last Sale Price would be for an IPO Auction or Direct Listing Auction (which does not exist because the security has not been previously listed on an exchange), the Exchange proposes to amend the definition of Consolidated Last Sale Price in NYSE Rule 7.35(a)(11)(A) to provide that: (i) For an IPO that has not had its IPO Auction, the Consolidated Last Sale Price would mean the security's offering price; and (ii) for a Direct Listing that has not had its Direct Listing Auction, the Consolidated Last Sale Price would mean the Indication Reference Price for such security.[16]

NYSE Rule 7.35A—DMM Consultations

The Exchange proposes to amend NYSE Rule 7.35A(g)(1) to provide that a DMM may consult with an underwriter or financial advisor for initial listings or follow-on offerings for the issuer of such security.[17] The Exchange represents that the proposed rule text reflects long-standing practice relating to the type of consultations that a Designated Market Maker (''DMM'') may have with an underwriter or financial advisor.[18] The Exchange further proposes to specify that any such consultations will be conducted by an underwriter or financial advisor relaying information to the DMM via either a Floor broker or Exchange staff.[19] The Exchange represents that, as with current practice, the only consultations that would be required in Exchange rules would be in connection with a Selling Shareholder Direct Floor Listing that has not had recent sustained history of trading in a Private Placement Market prior to listing.[20] The Exchange states that it believes that this proposed rule would promote transparency and clarity in Exchange rules by specifying the existing process whereby a DMM may consult with an underwriter or financial advisor in connection with a security having its initial listing on the Exchange or for a follow-on offering.[21]

B. Order Instituting Proceedings

In the Order Instituting Proceedings, the Commission requested comment on, among other things: (1) Whether the proposed rule should specify what is a permitted consultation provided for in the proposed amendments to NYSE Rule 7.35A; (2) whether there any types of information that the underwriter or financial advisor should be prohibited from conveying to the DMM in these consultations; (3) whether a DMM should be permitted to communicate directly with the underwriter or financial advisor with respect to these consultations, rather than through a Floor broker or a member of the Exchange's staff; and (4) whether the Exchange's rules should distinguish between DMM consultations with underwriters or financial advisors with respect to follow-on offerings for securities that have a market value reflected in trading prices as opposed to initial offerings.[22]

In response to the questions raised in the Order Instituting Proceedings, the Exchange states that there is a long-standing practice on the Trading Floor for DMMs to communicate with underwriters via Floor brokers in connection with IPO Auctions and Core Open Auctions for follow-on offerings.[23] According to the Exchange, this practice is consistent with Exchange rules, which permit Floor brokers to use cellular phones at the point of sale, including to relay market look information off the Trading Floor.[24] The Exchange states its belief that this practice also promotes a fair and orderly and transparent auction process because any information that is relayed from the underwriter to the DMM or from the DMM to the underwriter is announced on the Trading Floor, and is thereby available to anyone at the point of sale.[25] The Exchange also states that, to the extent the DMM receives information that would affect the opening price, that information would be incorporated into the pre-opening indication published by the DMM, which is disseminated via both proprietary data feeds and the Consolidated Tape. The Exchange states that when the Exchange introduced Direct Listing Auctions, DMMs met their obligation to consult with financial advisors using the same process.[26]

The Exchange states that the proposal would specify in Exchange rules this long-standing practice with only one proposed difference—specifically, that the Exchange proposes to provide an underwriter or financial advisor the choice to use either a Floor broker or

[9] *See* Notice, *supra* note 3, for a complete description of the proposal as originally filed.

[10] In Partial Amendment No. 2, the Exchange also proposes to update the text to NYSE Rule 7.35A(g)(1) in the Exhibit 5 to correctly reflect the text of that rule as recently amended. *See supra* note 8 and accompanying text.

[11] As used in Exchange Rules, the term ''Direct Listing'' means a security that is listed under Footnote (E) to Section 102.01B of the Listed Company Manual, which can be either a ''Selling Shareholder Direct Floor Listing'' or a ''Primary Direct Floor Listing.'' *See* NYSE Rule 1.1(f).

[12] *See* Notice, *supra* note 3, 85 FR at 73323. Commentaries .01 and .02 to Rule 7.35, currently in effect on a temporary basis through August 31, 2021, provide for the dissemination of Auction Imbalance Information if a security is an IPO or Direct Listing and has not had its IPO Auction or Direct Listing Auction. *See* Securities Exchange Act Release No. 91778 (May 5, 2021), 86 FR 25902 (May 11, 2021) (SR–NYSE–2021–29).

[13] *See* Notice, *supra* note 3, 85 FR at 73323.

[14] *See id.*

[15] *See* Notice, *supra* note 3, 85 FR at 73323.

[16] *See id.*

[17] *See* Notice, *supra* note 3, 85 FR at 73324.

[18] *See id.*

[19] *See id.*

[20] *See id.*

[21] *See id.*

[22] *See* Order Instituting Proceedings, *supra* note 6, 86 FR at 10387.

[23] *See* Partial Amendment No. 2, *supra* note 8, at 7.

[24] *See id.*

[25] *See id.*

[26] *See* Partial Amendment No. 2, *supra* note 8, at 7–8.

Exchange staff to relay information to and from the DMM.[27] The Exchange states that it has been operating in this manner on a temporary basis during the period when there have been reduced DMM and Floor broker staff on the Trading Floor to reduce the spread of COVID–19.[28] The Exchange states its belief that if an underwriter or financial advisor chooses to use Exchange staff to relay information, it would still be an open and transparent process, because any information that Exchange staff request of a DMM would be relayed to anyone at the point of sale, and any information that an underwriter or financial advisor provides to Exchange staff would be relayed to the DMM at the point of sale, again, available to anyone else standing in the crowd.[29]

The Exchange states its belief that it is not necessary for Exchange rules to impose any restrictions on the type of information that is relayed from an underwriter or financial advisor to the DMM and vice versa because, in the Exchange's view, the manner of such communications makes them available to all Floor brokers that choose to be at the point of sale, and if the communications impact pricing, that information would be incorporated into the pre-opening indication published by the DMM and disseminated via both proprietary data feeds and the Consolidated Tape.[30] The Exchange also states its belief that, because any such communications are available to any Floor brokers at the point of sale, and could be shared with customers of those Floor brokers, Exchange rules do not need to limit the information an underwriter or financial advisor may ask to be relayed to the DMM by a Floor broker or Exchange staff.[31] The Exchange further states that having a Floor-based intermediary between an underwriter or financial advisor and the DMM ensures an open and transparent process on the Trading Floor, and that, therefore, in the Exchange's view, Exchange rules do not need to be modified at this time to permit direct communications between the DMM and underwriter or financial advisor.[32] Finally, the Exchange states that, for similar reasons, the Exchange does not believe that the permissible method of communication needs to be distinguished among an IPO Auction, Direct Listing Auction, or Core Open Auction in connection with a follow-on offering.[33]

III. Discussion and Commission Findings

After careful review, the Commission is approving the proposed rule change, as modified by Amendment No. 2, for the reasons discussed below.[34] The Commission finds that the proposed rule change, as modified, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, including Section 6(b)(5) of the Exchange Act,[35] which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; and are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The proposed change to make permanent that the Exchange would disseminate Auction Imbalance Information if a security is an IPO or Direct Listing and has not had its IPO Auction or Direct Listing Auction is reasonably designed to promote fair and orderly IPO Auctions and Direct Listing Auctions, because including this information in the Auction Imbalance Information on the same terms that it is disseminated for other Core Open Auctions would promote transparency in advance of an IPO Auction or Direct Listing Auction. The Exchange initially excluded IPOs and Direct Listings from Order Imbalance Information because Exchange systems at the time did not have access to interest represented in the crowd by Floor brokers.[36] Since the Exchange transitioned to its Pillar trading platform in August 2019, all Floor broker interest intended for a Core Open Auction, IPO Auction, or Direct Listing Auction must be entered electronically,[37] and Exchange systems will include such orders in the Auction Imbalance Information.[38] Because Floor broker interest is now entered electronically and can be included in Auction Imbalance Information for all Core Open Auctions, the original rationale for excluding such information has become moot.

The Commission also finds that the proposal to make permanent the ability of an underwriter or financial advisor to convey information to the DMM in connection with initial listings and follow-on offerings via either a Floor broker or Exchange staff is consistent with the Act. Whether an underwriter or financial advisor relays information to the DMM via Exchange staff or a Floor broker, the process would remain open and transparent because all such communications would occur on the Exchange floor in the presence of all persons present in the trading crowd and because, if those communications impact the anticipated pricing of the auction, that information would be incorporated into the pre-opening indication published by the DMM and disseminated via both proprietary data feeds and the Consolidated Tape, which provides additional transparency.[39] The Commission, however, reminds market participants that the federal securities laws, including Regulation M and other antifraud and anti-manipulation provisions, will continue to apply and that the proposed amendments to NYSE Rule 7.35A(g)(1) do not modify or provide any relief from—or create an exception to—these provisions of the federal securities laws and regulations, including Regulation M.[40] Further, reliance on NYSE Rule 7.35A(g)(1) or any amendments thereto would not create a safe harbor with respect to violations of Regulation M.

The proposed change to NYSE Rule 7.35A(g)(1) is reasonably designed to protect investors and the public interest and provide greater clarity and transparency in Exchange rules by

[27] *See* Partial Amendment No. 2, *supra* note 8, at 8.

[28] *See id.*

[29] *See id.*

[30] *See id.*

[31] *See id.*

[32] *See id.*

[33] *See id.*

[34] In approving this proposed rule change, the Commission has considered the proposed rule change's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[35] 15 U.S.C. 78f(b)(5).

[36] *See* Securities Exchange Act Release Nos. 74837 (April 29, 2015), 80 FR 25741 (May 5, 2015) (SR–NYSE–2015–19) (Notice of filing and immediate effectiveness of proposed rule change); and 82627 (Feb. 2, 2018), 83 FR 5650 (Feb. 8, 2018) (SR–NYSE–2017–30) (Approval Order).

[37] *See* Securities Exchange Act Release No. 85962 (May 29, 2019), 84 FR 26188, 26208 at n.73 (June 5, 2019) (SR–NYSE–2019–05) (Approval Order). As part of the transition to Pillar, the Exchange replaced the term ''Order Imbalance Information'' with ''Auction Imbalance Information.''

[38] *See* Notice, *supra* note 3, 85 FR at 73323.

[39] *See id.*

[40] *See, e.g.,* Securities Exchange Act Release No. 90758 (Dec. 22, 2020), 85 FR 85807, 85813 (Dec. 29, 2020) (SR–NYSE–2019–67) (stating, in approving the Exchange's proposed modification to its direct listing rules, that the Exchange had added language to its rule proposal ''reminding financial advisers to an issuer and the DMM that any consultations with the financial advisor must be conducted in a manner consistent with the federal securities laws, including Regulation M and other anti-manipulation requirements,'' and further stating that the Exchange had represented that it had retained FINRA to monitor such compliance and that it planned to issue regulatory guidance in this area).

codifying the current practice for DMM consultations with the underwriter or financial advisor of an issuer of a security in connection with initial listings and follow-on offerings. The Exchange represents that this proposed rule change would not result in any changes to how a DMM would determine the Auction Price for Core Open Auctions under NYSE Rule 7.35A(g).[41]

For the reasons discussed above, the Commission finds that the proposed rule change, as modified by Amendment No. 2, is consistent with the requirements of the Act and in particular Section 6(b)(5) because it is reasonably designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

IV. Solicitation of Comments on Partial Amendment No. 2 to the Proposed Rule Change

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether Partial Amendment No. 2 to the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSE–2020–93 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–NYSE–2020–93. 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 and on the Exchange's website *https://www.nyse.com/regulation/rule-filings?market=NYSE.* 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–NYSE–2020–93 and should be submitted on or before August 6, 2021.

V. Accelerated Approval of the Proposed Rule Change, as Modified as Partial Amendment No. 2

The Commission finds good cause, pursuant to Section 19(b)(2) of the Act,[42] to approve the proposed rule change, as modified by Partial Amendment No. 2, prior to the 30th day after the date of publication of Partial Amendment No. 2 in the **Federal Register**. As noted above, Partial Amendment No. 2 does not amend the substance of the proposal as initially filed but instead corrects reference in the rule text in the Exhibit 5 and provides additional background on the proposal. Because Partial Amendment No. 2 does not materially alter the substance of the proposed rule change or raise unique or novel regulatory issues, the Commission finds that accelerated approval of Partial Amendment No. 2 is consistent with the Act.

For the reasons discussed above, the Commission finds that Partial Amendment No. 2 is reasonably designed to protect investors and the public interest, and consistent with the requirements of the Act. Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,[43] to approve the proposed rule change, as modified by Partial Amendment No. 2, on an accelerated basis.

VI. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Exchange Act,[44] that the proposed rule change (SR–NYSE–2020–93), as modified by Partial Amendment No. 2, be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[45]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–15103 Filed 7–15–21; 8:45 am]

BILLING CODE 8011–01–P

[41] *See* Notice, *supra* note 3, 85 FR at 73325.

[42] 15 U.S.C. 78s(b)(2).

[43] 15 U.S.C. 78s(b)(2).

[44] 15 U.S.C. 78s(b)(2).

[45] 17 CFR 200.30–3(a)(12).

SURFACE TRANSPORTATION BOARD

[Docket No. AB 1065 (Sub-No. 4X)]

Indiana Southwestern Railway Co.—Abandonment Exemption—in Posey and Vanderburgh Counties, Ind.

Indiana Southwestern Railway Co. (ISW) has filed a verified notice of exemption under 49 CFR part 1152 subpart F—*Exempt Abandonments* to abandon approximately 20.367 miles of interconnecting rail lines (the Lines) in Posey and Vanderburgh Counties, Ind., as follows: (1) From milepost 227.5 (at Poseyville, Ind.) to milepost 243.2 (at the centerline of North St. Josephs Ave. near Evansville, Ind.), a total of approximately 15.7 miles; and (2) approximately 4.667 route miles from milepost 282.0 (at Poseyville, Ind.) to milepost 277.5 (at Cynthiana, Ind.).[1] The Lines traverse U.S. Postal Service Zip Codes 47720, 47633, and 47612.

ISW has certified that: (1) No local traffic has moved over the Lines for well over two years; (2) there is no overhead traffic on the Lines, and, if there were any, it could be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the Lines (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the Lines either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of a complainant within the two-year period; and (4) the requirements of 49 CFR 1105.7 and 1105.8 (notice of environmental and

[1] ISW filed an errata on June 28, 2021, to correct the description of the Lines. According to ISW, in its original submissions, the locations for milepost 282.0 and milepost 277.5 were unintentionally swapped.

historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received,[2] the exemption will be effective on August 15, 2021, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[3] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2), and interim trail use/rail banking requests under 49 CFR 1152.29 must be filed by July 26, 2021.[4] Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by August 5, 2021.

All pleadings, referring to Docket No. AB 1065 (Sub-No. 4X), should be filed with the Surface Transportation Board via e-filing on the Board's website. In addition, a copy of each pleading must be served on ISW's representative, William A. Mullins, Baker & Miller PLLC, 2401 Pennsylvania Avenue NW, Suite 300, Washington, DC 20037.

If the verified notice contains false or misleading information, the exemption is void ab initio.

ISW has filed a combined environmental and historic report that addresses the potential effects, if any, of the abandonment on the environment and historic resources. OEA issued a Draft Environmental Assessment (Draft EA) on July 9, 2021.[5] The Draft EA is available to interested persons on the Board's website, by writing to OEA, or by calling OEA at (202) 245–0305. Assistance for the hearing impaired is available through the Federal Relay Service at (800) 877–8339. Comments on environmental and historic preservation matters must be filed by July 26, 2021.

Environmental, historic preservation, public use, or interim trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), ISW shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the Lines. If consummation has not been effected by ISW's filing of a notice of consummation by July 16, 2022, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available at *www.stb.gov.*

Decided: July 13, 2021.

By the Board, Valerie O. Quinn, Acting Director, Office of Proceedings.

Aretha Laws-Byrum,

Clearance Clerk.

[FR Doc. 2021–15137 Filed 7–15–21; 8:45 am]

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[2] Persons interested in submitting an OFA must first file a formal expression of intent to file an offer, indicating the type of financial assistance they wish to provide (*i.e.,* subsidy or purchase) and demonstrating that they are preliminarily financially responsible. *See* 49 CFR 1152.27(c)(2)(i).

[3] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Serv. Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[4] Filing fees for OFAs and trail use requests can be found at 49 CFR 1002.2(f)(25) and (27), respectively.

[5] The Draft EA used the incorrect milepost locations for the Lines from ISW's original submissions. Those locations will be corrected in the Final EA.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2021–0486]

Agency Information Collection Activities: Requests for Comments; Clearance of a Renewed Approval of Information Collection: Safety Assurance System (SAS) External Portal

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The SAS external portal is a web-based tool developed for 14 CFR part 121, 135, 141, 142, 145 and 147 applicants and certificate holders (also referred to as external users) to exchange information with Flight Standards (FS) employees, primarily to collaborate and communicate with their FS counterparts regarding initial certification applications, and requesting new programs for acceptance and approval.

DATES: Written comments should be submitted by September 14, 2021.

ADDRESSES: Please send written comments:

By Electronic Docket: www.regulations.gov (Enter docket number into search field).

By mail: Wendy Johnson (c/o Denise Beaudoin), 13873 Park Center Rd, Herndon, VA 20171.

By fax: 703–481–6043.

FOR FURTHER INFORMATION CONTACT: Wendy Johnson by email at: *Wendy.Johnson@faa.gov*; phone 571–421–4110.

SUPPLEMENTARY INFORMATION:

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 FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA 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.

OMB Control Number: 2120–0774.

Title: Safety Assurance System (SAS) External Portal.

Form Numbers: List of the following web-based forms:

- Submitting a Preapplication Statement of Intent (PASI) Form (FAA Form 8400–6) (14 CFR parts 121, 135 and 141);
- Submitting an Application for Repair Station (FAA Form 8310–3) (14 CFR part 145);
- Submitting an Application for Aviation Maintenance School Certificate and Ratings Application (FAA Form 8310–6) (14 CFR part 147).

Type of Review: Renewal of an information collection.

Background: The SAS external portal is a web-based tool developed for applicants and certificate holders (also referred to as external users) to exchange information with Flight Standards employees, primarily the Certification Project Managers (CPMs), Principal Inspectors (PIs) and Training Center Program Managers (TCPMs). SAS external portal creates the ability for our external users to collaborate and communicate with their FS counterparts in the execution of the following functions:

• Submitting a Preapplication Statement of Intent (PASI) Form (FAA Form 8400–6) (14 CFR parts 121, 135 and 141);

• Submitting an Application for Repair Station (FAA Form 8310–3) (14 CFR part 145);

• Submitting an Application for Aviation Maintenance School Certificate and Ratings Application (FAA Form 8310–6) (14 CFR part 147);

• Submitting a Letter of Intent (14 CFR part 142);

• Submitting Element Design (ED) data collection tools (DCTs); and,

• Sharing of other documentation as needed.

Benefits to the certificate holder or applicant to use the external portal include:

• Ease of submission and expedited processing and tracking of documents/requests;

• Documents/requests are sent directly to the FS employees, which eliminates wait time for the entry of information by the PI/CPM; and,

• Access to DCTs.

Respondents: Applicant respondents—922,

Certificate Holder respondents—7892.

Frequency: On occasion.

Estimated Average Burden per Response: Applicant respondents—135 hours,

Certificate Holder respondents—90 hours.

Estimated Total Annual Burden:

Applicants $7,027,935,

Certificate Holders $40,104,456.

Issued in Minneapolis, MN, on June 10, 2021.

Wendy I. Johnson,

Assistant Program Office Manager, System Approach for Safety Oversight (SASO) Program Office, AFS–910.

[FR Doc. 2021–15131 Filed 7–15–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2021–0007]

Emergency Temporary Closure of the Interstate 40 Hernando DeSoto Bridge Over the Mississippi River Between Arkansas and Tennessee

AGENCY: Federal Highway Administration (FHWA), U.S. Department of Transportation (DOT).

ACTION: Notice; request for comments.

SUMMARY: The Arkansas Department of Transportation (ARDOT) and the Tennessee Department of Transportation (TDOT) closed the I–40 Hernando DeSoto Bridge (I–40 Bridge) over the Mississippi River between Arkansas and Tennessee on May 11, 2021, for safety considerations when a mechanical fracture was discovered within the elements of a steel box beam. FHWA is providing notice that ARDOT and TDOT are continuing the temporary closure of the I–40 Bridge for an indefinite period of time. FHWA has approved a request by the Arkansas and the Tennessee Divisions of the FHWA for an emergency deletion of a segment of I–40 between the I–55 Split (Exit 279B) in West Memphis, Arkansas, and the I–240 Interchange (Exit 1E) in Memphis, Tennessee, from the National Network in accordance with applicable regulations due to the safety considerations discussed in this notice. FHWA is requesting comments from the public on the alternate routes selected by TDOT and ARDOT due to the closure.

DATES: Comments must be received on or before August 16, 2021.

ADDRESSES: To ensure that you do not duplicate your docket submissions, please submit them by only one of the following means:

• *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the online instructions for submitting comments.

• *Mail:* U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE, Room W12–140, Washington, DC 20590–0001.

• *Hand Delivery or Courier:* U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC, between 9:00 a.m. and 5:00 p.m. ET, except Federal holidays.

• *Fax:* (202) 493–2251

Instructions: You must include the agency name and docket number [FHWA–2021–0007] at the beginning of your comments. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

FOR FURTHER INFORMATION CONTACT: John Berg, Truck Size and Weight Team, Office of Operations, (202) 740–4602, *john.berg@dot.gov,* or William Winne, Office of the Chief Counsel, (202) 366–0791, *william.winne@dot.gov,* Federal Highway Administration, 1200 New Jersey Avenue SE, Washington, DC 20590; Vivien N. Hoang, FHWA Division Administrator, Arkansas Division, (501) 324–6436, *vivien.hoang@dot.gov,* or Pamela Kordenbrock, FHWA Division Administrator, Tennessee Division, (615) 781–5770, *pamela.kordenbrock@dot.gov.*

SUPPLEMENTARY INFORMATION:

Electronic Access and Filing

This document and all comments received may be viewed online through the Federal eRulemaking portal at *http://www.regulations.gov.* The website is available 24 hours each day, 365 days each year. An electronic copy of this document may also be downloaded by accessing the Office of the Federal Register's website at *www.federalregister.gov* and the Government Publishing Office's website at *www.govinfo.gov.*

Background

The ARDOT and TDOT closed the I–40 Bridge over the Mississippi River between Arkansas and Tennessee on May 11, 2021, for safety considerations. During a routine inspection of the I–40 Bridge by ARDOT, a mechanical fracture was discovered within the elements of a steel box beam. Local law enforcement agencies were immediately notified to shut down the bridge to all traffic. FHWA is providing notice that ARDOT and TDOT are continuing the temporary closure of the I–40 Bridge for an indefinite period of time.

FHWA is responsible for enforcing the Federal regulations applicable to the National Network of highways that can safely and efficiently accommodate the large vehicles authorized by provisions of the Surface Transportation Assistance Act of 1982, Public Law 97–424 as amended, designated in accordance with 23 CFR part 658 (Truck Size and Weight, Route Designations—Length, Width and Weight Limitations) and listed in Appendix A to Part 658. Under 23 CFR 658.11 (Additions, deletions, exceptions, and restrictions), FHWA may approve deletions of, or use restrictions on, the Interstate system or other National Network route based upon specified justification criteria in 23 CFR 658.11(d)(2). FHWA is authorized to delete any route from the National Network on an emergency basis based on safety considerations pursuant to section 658.11(e), which also requires publishing this notice in the **Federal Register** for comment.

The closure of the I–40 Bridge has affected traffic throughout western Tennessee, the Memphis metropolitan area, and eastern Arkansas. The I–40 Bridge and the I–55 Memphis-Arkansas Bridge (I–55 Bridge) are the only two Mississippi River crossings in the Memphis area. The additional traffic on I–55 due to the I–40 Bridge closure has increased delays in crossing the river.

Based on traffic volume data provided by ARDOT and TDOT, the closed I–40 Bridge carried an Average Annual Daily Traffic (AADT) count of over 40,000 vehicles, and trucks comprised 30 percent of that volume. The I–55 Bridge had an AADT count of over 40,000 vehicles, with 35 percent of the volume comprised of trucks. The TDOT's 2018 Statewide Multimodal Freight Plan [1] identified the I–55 river crossing as one of the top freight bottlenecks, based on the route meeting the condition that the segment had a level of service of F with a truck volume of greater than 5,000 trucks per day, and truck travel speeds averaging less than 45 mph.

Arkansas and Tennessee State transportation officials have implemented official detours via the Interstate network. Traffic on I–40 eastbound from West Memphis, Arkansas, into Memphis, Tennessee, is being rerouted to I–55 south to cross the I–55 Bridge. Motorists may then use I–240 to connect to I–40 eastbound in Tennessee. Traffic on I–40 westbound from Memphis, Tennessee, into West Memphis, Arkansas, is detoured to I–240, where traffic may connect to I–55 northbound to cross the Memphis-Arkansas Bridge and merge back into I–40 westbound.

Some ramps in the area are also closed. The TDOT closed the ramps accessing I–40 westbound from State Route 3 (SR 3)/Danny Thomas Boulevard southbound and northbound, Riverside Drive, Front Street, Madison Avenue, and I–240 northbound. In addition, I–40 westbound is closed to traffic at the split with I–240 southbound and the ramps to SR 3/Danny Thomas Boulevard southbound, Mound City Road and Martin Luther King Jr. Drive. The ARDOT closed the ramps accessing I–40 eastbound from Mound City Road and Martin Luther King Jr. Drive. In addition, I–40 eastbound is closed at the split with I–55 southbound and there is a lane closure in the area. The City of Memphis retimed the traffic signals to accommodate new traffic patterns and distributed maps through media on how to travel in and around downtown Memphis. In addition, TDOT is addressing the capacity of the I–55 and Crump Interchange by performing signing and striping changes to improve operations for both northbound and southbound traffic near the I–55 bridge. These improvements include ramp closures, enhanced striping to address friction points, and signage restricting movements that impact operations.

The TDOT and ARDOT have coordinated plans with local governments on both sides of the Mississippi River. The TDOT and ARDOT met with local transportation officials and police agencies immediately after the closure to prepare for the anticipated overflow of traffic from the official detour route on the Interstates to the local network. Such coordination is continuing with the City of Memphis counterparts in traffic, operations, and emergency management to address any issues on diverted traffic, incidents, detours, and delay notices as changes are being made to improve travel in the area. Police agencies in the region are also assisting.

The TDOT SmartWay Traffic Management System provides access to closed circuit television and dynamic message signs (DMS) on both sides of the Mississippi River to allow real-time monitoring of traffic and incidents. Daily updates are being posted on TDOT's website for the I–40 closure. Traffic conditions on the I–55 Memphis-Arkansas Bridge can also be heard on TDOT's 511 system. The TDOT placed portable message signs on I–40 west of the Tennessee River and east of Jackson, Tennessee, advising of the bridge closure. Estimated travel time to E. H. Crump Boulevard is displayed on the I–40 DMS west of the I–40/I–55 Interchange in West Memphis, Arkansas. Navigation service providers were advised of the bridge closure so that digital maps correctly reflect the current situation.

The ARDOT is also providing closed circuit television, portable changeable message signs (CMS), and static DMS on the Arkansas side of the river. Portable CMS were placed along I–55, as far as the Missouri State line and along I–40. DMS were posted as far away as Fort Smith, Texarkana, and Little Rock to advise intrastate traffic of the bridge closure. The ARDOT public facing website, iDriveArkansas, has incident and advisory information concerning the closure. Live streaming video is available to the public and the ARDOT Traffic Management Center, which it actively monitors and provides assistance to first responders. Portable camera trailers and temporary cameras were deployed nearby and, on the structure, to assist with bridge monitoring. Traffic signal timing was reviewed for Marion and West Memphis.

To assist in facilitating Interstate commerce, ARDOT and TDOT are coordinating with local trucking associations to minimize freight traffic disruptions. The TDOT is working with State departments of transportation in Mississippi and Missouri along with the trucking industry to identify possible detour routes for long haul commercial motor vehicle (CMV) drivers to allow them to divert to other Mississippi River crossings and avoid the I–55 Bridge. By partnering with a smart mobility CMV fleet service, TDOT has arranged for detour information to be shared directly with CMV drivers through in-cab devices.

Overweight permitted loads in excess of 180,000 lbs. are being routed around the I–55 Bridge on alternate routes. Eastbound loads in excess of 12′6″ in width are being rerouted as well. CMVs of the dimensions and configurations described in 23 CFR 658.13 and 658.15 which serve the affected area must use the following alternate routes:

For vehicles with a height of 13′7″ to 15′9″: Eastbound I–55 travel must follow E. H. Crump Boulevard to Florida Street to South Parkway to I–240. Vehicles headed westbound must take I–240 Exit 28 to South Parkway to Florida Street to E. H. Crump Boulevard to I–55.

For vehicles with a height of 15′10″ and up: Eastbound I–55 travel must follow E. H. Crump Boulevard to Florida Street to Kansas Street/New Horn Lake Road to US–61. Vehicles headed westbound must take SR–175 to US–61 to New Horn Lake Road/Kansas Street to Florida Street to E. H. Crump Boulevard to I–55.

Note: Any load over 15′6″ will have a survey that must be reviewed for accuracy. Vehicles servicing the businesses bordering the impacted area are still able to do so by also using the alternate routes described above and local signage to circulate around the restricted area.

Authority: 23 U.S.C. 127 and 315; 49 U.S.C. 31111, 31112, and 31114; 23 CFR part 658.

Issued in Washington, DC, on July 12, 2021.

Stephanie Pollack,

Acting Administrator, Federal Highway Administration.

[FR Doc. 2021–15151 Filed 7–15–21; 8:45 am]

BILLING CODE 4910–22–P

[1] Tennessee Statewide Multimodal Freight Plan is available at *www.tn.gov/content/dam/tn/tdot/freight-and-logistics/TDOT_FreightPlan_AMENDED_04022019.pdf.*

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0697]

Agency Information Collection Activity Under OMB Review: Application for Approval of a Licensing or Certification Test and Organization or Entity

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and it includes the actual data collection instrument.

DATES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Refer to ''OMB Control No. 2900–0697.

FOR FURTHER INFORMATION CONTACT: Maribel Aponte, Office of Enterprise and Integration, Data Governance Analytics (008), 1717 H Street NW, Washington, DC 20006, (202) 266–4688 or email *maribel.aponte@va.gov.* Please refer to ''OMB Control No. 2900–0697'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Authority: 38 U.S.C. 3689.

Title: Application for Approval of a Licensing or Certification Test and Organization or Entity.

OMB Control Number: 2900–0697.

Type of Review: Revision of a currently approved collection.

Abstract: SAAs and VA will use the information to decide whether the licensing and certification tests, and the organizations offering them, should be approved for use under the education programs VA administers.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 86 FR 9546 on May 6, 2021, page 24440.

Affected Public: Individuals or Households.

Estimated Annual Burden: 1,713 hours.

Estimated Average Burden per Respondent: 3 hours.

Frequency of Response: Annually.

Estimated Number of Respondents: 571.

By direction of the Secretary.

Maribel Aponte,

VA PRA Clearance Officer, Office of Enterprise and Integration, Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2021–15169 Filed 7–15–21; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0469]

Agency Information Collection Activity Under OMB Review: Certificate Showing Residence and Heirs of Deceased Veterans or Beneficiary

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Benefits Administration, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and it includes the actual data collection instrument.

DATES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Refer to ''OMB Control No. 2900–0469.

FOR FURTHER INFORMATION CONTACT: Maribel Aponte, Office of Enterprise and Integration, Data Governance Analytics (008), 1717 H Street NW, Washington, DC 20006, (202) 266–4688 or email *maribel.aponte@va.gov.* Please refer to ''OMB Control No. 2900–0469'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Authority: 44 U.S.C. 3501–21.

Title: Certificate Showing Residence and Heirs of Deceased Veterans of Beneficiary VA Form 29–541.

OMB Control Number: 2900–0469.

Type of Review: Revision of a currently approved collection.

Abstract: The form is used by the Department of Veterans Affairs (VA) to establish entitlement to Government Life Insurance proceeds in estate cases when formal administration of the estate is not required. The information on the form is required by law, Title 38, U.S.C. 1817 and 1950. This form expired due to high volume of work and staffing changes.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 86 FR 26604 on May 14, 2021, pages 26604 and 26605.

Affected Public: Individuals or Households.

Estimated Annual Burden: 1,039.

Estimated Average Burden per Respondent: 30 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 2,078.

By direction of the Secretary.

Maribel Aponte,

VA PRA Clearance Officer, Office of Enterprise and Integration, Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2021–15130 Filed 7–15–21; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Notice of Availability of the Draft Programmatic Environmental Impact Statement of the Department of Veterans Affairs Housing Loan Program

AGENCY: Department of Veterans Affairs (VA).

ACTION: Notice of availability.

SUMMARY: VA announces the availability of the Draft Programmatic Environmental Impact Statement (PEIS) for the Housing Loan Program (HLP) for public review and comment. The Draft PEIS identifies, analyzes and documents the potential physical, environmental, cultural, socioeconomic and cumulative impacts of continued administration and operation of VA's HLP. The comprehensive HLP, which is managed by VA's Veterans Benefits

Administration (VBA), administers VA-guaranteed housing loan benefits and other housing-related benefits that assist eligible Veterans, surviving spouses, active duty personnel, Selected Reservists and National Guardsmen (collectively referred to as Veterans) in purchasing, constructing, repairing, adapting, or improving a home.

DATES: VA invites Federal, state, tribal and local entities; non-profit organizations; businesses; interested parties; and the general public to submit written comments on the Draft PEIS during the 45-day public comment period that ends August 30, 2021.

ADDRESSES: Written comments may be submitted through *http://www.regulations.gov.* The Draft PEIS is available for viewing at the VA website *https://www.benefits.va.gov/homeloans/environmental_impact.asp.* Due to the COVID–19 pandemic, virtual public presentations will be available in lieu of public hearings, and the presentations will be continually accessible through the project website. Printed copies of the document may be obtained by contacting VA at *VAHLPNEPA.VBAVACO@va.gov.*

FOR FURTHER INFORMATION CONTACT: Elysium Drumm, Supervisory Management Analyst, Loan Guaranty Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, 202–632–8862 (This is not a toll-free number.) or *VAHLPNEPA.VBAVACO@va.gov.*

SUPPLEMENTARY INFORMATION: The Draft PEIS was developed pursuant to the National Environmental Policy Act (NEPA) of 1969, as amended (42 U.S.C. 4321, *et seq.*), the Council on Environmental Quality's regulations for implementing the procedural provisions of NEPA (40 CFR 1500–1508) and VA's NEPA regulations titled ''Environmental Effects of the Department of Veterans Affairs Actions'' (38 CFR 26).

The most significant element of the HLP is the provision of housing benefits that assist eligible Veterans in financing the purchase, construction, repair, or improvement of a home for their personal occupancy. See 38 U.S.C. 3701 *et seq.* VBA provides Federal assistance in the form of loans made, insured, or guaranteed by VA. VBA is also responsible for the management, marketing and disposition of real estate owned properties that VA acquires following the foreclosure of certain VA-guaranteed loans and loans held in VA's portfolio. Under HLP, VA also provides direct loans to Native American Veterans to purchase homes on trust, tribal, or communally-owned lands, and HLP extends grants for home adaptations to Veterans with service-connected disabilities through the Specially Adapted Housing program. HLP provides what can be, for some Veterans, their sole opportunity to obtain crucial housing loans and grants.

Through the PEIS, VA is using the NEPA process to evaluate the potential physical, environmental, cultural, socioeconomic and cumulative effects of HLP; to invite public comments; and to assist with and inform future agency planning and decision- making related to HLP. The PEIS evaluates HLP, which assists hundreds of thousands of Veterans each year across the United States and its territories, to ensure VA appropriately considers the human environmental elements and effects specified in 40 CFR 1508.8 (including ecological, aesthetic, historic, cultural, economic, social, or health, whether direct, indirect, or cumulative) in carrying out the various elements and aspects of the program. Environmental topics that have been addressed in the Draft PEIS include the following: Aesthetics; air quality; biological resources; cultural resources; floodplains, wetlands and coastal zones; geology and soils; hydrology and water quality; infrastructure and community services; land use and planning; noise; and socioeconomics and environmental justice. The PEIS also identifies and analyzes potential cumulative impacts, which are the potential incremental impacts on the environment resulting from continued administration and operation of the HLP in combination with other past, present and reasonably foreseeable future actions from other relevant Federal and non-Federal programs.

The PEIS is atypical in that it addresses an existing program, and VA has no specific or immediate need to change its operational structure or procedures to address environmental impacts. Furthermore, the making of loan guaranties, direct loans and grants do not typically result in direct environmental impacts. Environmental impacts, if they occur, would be the result of private citizen actions (*e.g.,* construction of a house funded by VA-guaranteed loan financing) related to a specific property. In this case, the primary environmental impacts of concern for VA would be the potential indirect impacts from homeowner actions and the potentially significant cumulative impacts of small incremental actions on local and regional resources.

Signing Authority

Denis McDonough, Secretary of Veterans Affairs, approved this document on March 29, 2021, and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs.

Luvenia Potts,

Regulation Development Coordinator, Office of Regulation Policy & Management, Office of the Secretary, Department of Veterans Affairs.

[FR Doc. 2021–15014 Filed 7–15–21; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 86 Friday,
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Part II

Department of Commerce

National Oceanic and Atmospheric Administration

50 CFR Part 218

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to the U.S. Navy Training and Testing Activities in the Point Mugu Sea Range Study Area; Proposed Rule

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 218

[Docket No. 210701–0141]

RIN 0648–BK07

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to the U.S. Navy Training and Testing Activities in the Point Mugu Sea Range Study Area

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

ACTION: Proposed rule; request for comments and information.

SUMMARY: NMFS has received a request from the U.S. Navy (Navy) to take marine mammals incidental to training and testing activities conducted in the Point Mugu Sea Range (PMSR) Study Area. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue regulations and subsequent Letter of Authorization (LOA) to the Navy to incidentally take marine mammals during the specified activities. NMFS will consider public comments prior to issuing any final rule and making final decisions on the issuance of the requested LOA. Agency responses to public comments will be summarized in the notice of the final decision in the final rule. The Navy's activities qualify as military readiness activities pursuant to the MMPA, as amended by the National Defense Authorization Act for Fiscal Year 2004 (2004 NDAA).

DATES: Comments and information must be received no later than August 30, 2021.

ADDRESSES: Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *https://www.regulations.gov* and enter NOAA–NMFS–2021–0064 in the Search box. Click on the ''Comment'' icon, complete the required fields, and enter or attach your comments.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Stephanie Egger, Office of Protected Resources, NMFS, (301) 427–8401. Electronic copies of the application and supporting documents, as well as a list of the references cited in this document, may be obtained online at: *https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act.* In case of problems accessing these documents, or for anyone who is unable to comment via electronic submission, please call the contact listed above.

SUPPLEMENTARY INFORMATION:

Purpose of Regulatory Action

These proposed regulations, issued under the authority of the MMPA (16 U.S.C. 1361 *et seq.*), would provide the framework for authorizing the take of marine mammals incidental to the Navy's training and testing activities (which qualify as military readiness activities) from the use of at-surface and near-surface explosive detonations throughout the PMSR Study Area, as well as launch events from San Nicolas Island (SNI). The Study Area includes 36,000 square miles and is located adjacent to Los Angeles, Ventura, Santa Barbara, and San Luis Obispo Counties along the Pacific Coast of Southern California (see Figure 1.1 of the application). The two primary components of the PMSR are the Special Use Airspace (SUA) and the ocean Operating Areas (PMSR-controlled sea space). The PMSR-controlled sea space parallels the California coast for approximately 225 nautical miles (nmi) and extends approximately 180 nmi seaward (see Figure 1–1 of the application).

NMFS received an application from the Navy requesting seven-year regulations and an authorization to incidentally take individuals of multiple species of marine mammals (''Navy's rulemaking/LOA application'' or ''Navy's application''). Take is anticipated to occur by Level A and Level B harassment incidental to the Navy's training and testing activities, with no serious injury or mortality expected or proposed for authorization.

Background

The MMPA prohibits the take of marine mammals, with certain exceptions. Sections 101(a)(5)(A) and (D) of the MMPA direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review and the opportunity to submit comments.

An authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stocks and will not have an unmitigable adverse impact on the availability of the species or stocks for taking for subsistence uses (where relevant). Further, NMFS must prescribe the permissible methods of taking and other means of effecting the least practicable adverse impact on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stocks for taking for certain subsistence uses (referred to in this rule as ''mitigation measures''). NMFS also must prescribe the requirements pertaining to the monitoring and reporting of such takings. The MMPA defines ''take'' to mean to harass, hunt, capture, or kill, or attempt to harass, hunt, capture, or kill any marine mammal. The Preliminary Analysis and Negligible Impact Determination section below discusses the definition of ''negligible impact.''

The NDAA for Fiscal Year 2004 (2004 NDAA) (Pub. L. 108–136) amended section 101(a)(5) of the MMPA to remove the ''small numbers'' and ''specified geographical region'' provisions indicated above and amended the definition of ''harassment'' as applied to a ''military readiness activity.'' The definition of harassment for military readiness activities (section 3(18)(B) of the MMPA) is: (i) Any act that injures or has the significant potential to injure a marine mammal or marine mammal stock in the wild (Level A Harassment); or (ii) Any act that disturbs or is likely to disturb a marine mammal or marine mammal stock in the wild by causing disruption of natural behavioral patterns, including, but not limited to, migration, surfacing, nursing, breeding, feeding, or sheltering, to a point where such behavioral patterns are abandoned or significantly altered (Level B harassment). In addition, the 2004 NDAA amended the MMPA as it relates to military readiness activities

such that the least practicable adverse impact analysis shall include consideration of personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity.

More recently, section 316 of the NDAA for Fiscal Year 2019 (2019 NDAA) (Pub. L. 115–232), signed on August 13, 2018, amended the MMPA to allow incidental take rules for military readiness activities under section 101(a)(5)(A) to be issued for up to seven years. Prior to this amendment, all incidental take rules under section 101(a)(5)(A) were limited to five years.

Summary and Background of Request

On March 9, 2020, NMFS received an application from the Navy for authorization to take marine mammals by Level A and Level B harassment incidental to training and testing activities (categorized as military readiness activities) from (1) the use of at-surface or near-surface explosive detonations in the PMSR Study Area, as well as (2) launch events from SNI, over a seven-year period beginning October 2021 through October 2028. We received a revised application on August 28, 2020, which provided minor revisions to the mitigation and monitoring sections, and upon which the Navy's rulemaking/LOA application was found to be adequate and complete. On September 4, 2020, we published a notice of receipt (NOR) of application in the **Federal Register** (85 FR 55257), requesting comments and information related to the Navy's request for 30 days. We reviewed and considered all comments and information received on the NOR in development of this proposed rule.

The following types of training and testing, which are classified as military readiness activities pursuant to the MMPA, as amended by the 2004 NDAA, will be covered under the regulations and LOA: Air warfare (air-to-air, surface-to-air), electronic warfare (directed energy—lasers and high-powered microwave systems), and surface warfare (surface-to-surface, air-to-surface, and subsurface-to surface). The proposed activities will not include any sonar, pile driving/removal, or use of air guns.

The Navy's mission is to organize, train, equip, and maintain combat-ready naval forces capable of winning wars, deterring aggression, and maintaining freedom of the seas. This mission is mandated by Federal law (10 U.S.C. 8062), which requires the readiness of the naval forces of the United States. The Navy executes this responsibility by training and testing at sea, often in designated operating areas (OPAREA) and testing and training ranges. The Navy must be able to access and utilize these areas and associated sea space and air space in order to develop and maintain skills for conducting naval operations. The Navy's testing activities ensure naval forces are equipped with well-maintained systems that take advantage of the latest technological advances. The Navy's research and acquisition community conducts military readiness activities that involve testing. The Navy tests ships, aircraft, weapons, combat systems, sensors, and related equipment, and conducts scientific research activities to achieve and maintain military readiness.

The Navy has been conducting testing and training activities in the PMSR Study Area since the PMSR was established in 1946. The tempo and types of training and testing activities fluctuate because of the introduction of new technologies, the evolving nature of international events, advances in warfighting doctrine and procedures, and changes in force structure (*e.g.,* organization of ships, submarines, aircraft, weapons, and personnel). Such developments influence the frequency, duration, intensity, and location of required training and testing activities. The proposed activities include current activities, previously analyzed in the 2002 PMSR Environment Impact Statement/Overseas Environmental Impact Statement (EIS/OEIS), and increases in the testing and training activities as described in the 2020 PMSR DEIS/OEIS. NMFS promulgated MMPA incidental take regulations relating to missile launches from SNI from June 3, 2014, through June 3, 2019 (79 FR 32678; June 6, 2014). Since then, the Navy has been operating under IHAs (84 FR 28462, June 19, 2019; 85 FR 38863, June 29, 2020) for those similar activities on SNI. For this rulemaking, the Navy is requesting authorization for marine mammal take incidental to activities on SNI similar to those they have conducted under these and previous authorizations, as well as the use of at-surface and near-surface explosive detonations throughout the PMSR Study Area. The proposed testing and training activities are deemed necessary to accomplish Naval Air System Command's mission of providing for the safe and secure collection of decision-quality data; and developing, operating, managing and sustaining the interoperability of the Major Range Test Facility Base at the PMSR into the foreseeable future.

The Navy's rulemaking/LOA application reflects the most up-to-date compilation of training and testing activities deemed necessary to accomplish military readiness requirements. The types and numbers of activities included in the rule account for fluctuations in training and testing in order to meet evolving or emergent military readiness requirements. These proposed regulations would cover training and testing activities that would occur for a seven-year period beginning October 2021.

Description of the Specified Activity

The Navy requests authorization to take marine mammals incidental to conducting training and testing activities. The Navy has determined that explosive stressors and missile launch activities are most likely to result in impacts on marine mammals that could rise to the level of harassment, and NMFS concurs with this determination. Descriptions of these activities are provided in section 2 of the 2020 PMSR Draft EIS/OEIS (DEIS/OEIS) (U.S. Department of the Navy, 2020) and in the Navy's rulemaking/LOA application (*https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-military-readiness-activities*), and are summarized here.

Dates and Duration

The specified activities would occur at any time during the seven-year period of validity of the regulations, with the exception of the activity types and time periods for which limitations have explicitly been identified (to the maximum extent practicable; see Proposed Mitigation Measures section). The proposed amount of training and testing activities are described in the Detailed Description of the Specified Activities section (Table 3).

Geographical Region

The PMSR Study Area is located adjacent to Los Angeles, Ventura, Santa Barbara, and San Luis Obispo Counties along the Pacific Coast of Southern California and includes a 36,000-square-mile sea range (Figure 1). It is a designated Major Range Test Facility Base and is considered a national asset that exists primarily to provide test and evaluation information for DoD decision makers and to support the needs of weapon system development programs and DoD research needs. The two primary components of the PMSR Study Area are Special Use Airspace (SUA) and the ocean Operating Areas. Additionally, the Navy is proposing launch activities on San Nicolas Island (SNI), California, for testing and training activities associated with operations within the PMSR Study Area. SNI is one

of the Channel Islands in the PMSR Study Area.

Special Use Airspace

The SUA is airspace designated wherein activities must be confined because of their nature, or wherein limitations are imposed upon aircraft operations that are not a part of those activities, or both. SUA consists of both controlled and uncontrolled airspace and has defined dimensions. Flight and other activities for non-participating aircraft are restricted or prohibited for safety or security reasons. The majority of SUA is established for military flight activities and, with the exception of prohibited areas, may be used for commercial or general aviation when not reserved for military activities. Two area components of the PMSR SUA:

- Warning Areas—A Warning Area is airspace of defined dimensions, extending from 3 nmi outward from the coast that contains activity that may be hazardous to non-participating aircraft. Warning areas are established to contain a variety of hazardous aircraft and non-aircraft activities, such as aerial gunnery, air and surface missile firings, bombing, aircraft carrier operations, surface and subsurface operations, and naval gunfire. The 11 Warning Areas within the PMSR include W–532N, W–532E, W–532S; W–537; W–289N, W–289 S, W–289W, W–289E; W–292W, W–292E; and W–412 (see Figure 1).

- Restricted Areas—restricted areas are a type of SUA within which the flight of aircraft, while not wholly prohibited, is subject to restriction.

Ocean Operating Areas

The PMSR-controlled sea space (Ocean Operating Areas) parallels the California coast for approximately 225 nmi and extends approximately 180 nmi seaward, aligning with the PMSR Warning Area airspace (Figure 1). The controlled sea space areas consist of the following:

- Surface Danger Zones—A danger zone is a defined water area used for target practice, bombing, rocket firing, or other especially hazardous military activities.

- Restricted Area—A restricted area is a defined water area for the purpose of prohibiting or limiting public access to the area.

Additional detail can be found in Chapter 2 of the Navy's rulemaking/LOA application.

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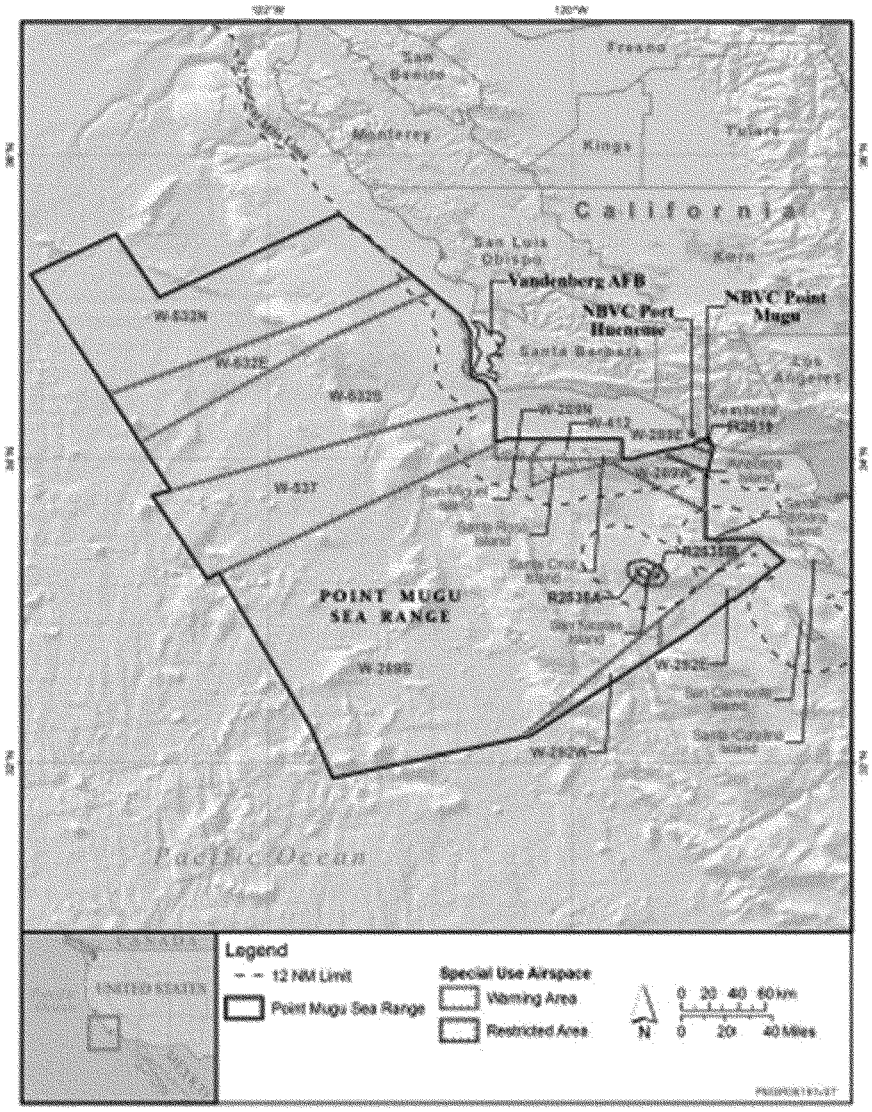

Figure 1--Map of the PMSR Study Area

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Overview of Training and Testing Within the PMSR Study Area

The Navy describes and analyzes the effects of its activities within the 2020 PMSR DEIS/OEIS. In its assessment, the Navy concluded that at-surface and near-surface explosive detonations were the stressors that would result in impacts on marine mammals that could rise to the level of harassment as defined under the MMPA. Therefore, the Navy's rulemaking/LOA application provides the Navy's assessment of potential effects from these stressors in terms of various warfare mission areas in which they will be conducted.

Primary Mission Areas

The Navy categorizes its at-sea activities into functional warfare areas called primary mission areas. Each warfare community may train in some or all of these primary mission areas. The Navy also categorizes most, but not all, of its testing activities under these primary mission areas. Activities addressed for the PMSR Study Area are categorized under three primary mission areas. Within those three primary mission areas, there are more specific categories or activity scenarios that reflect testing and training activities, as listed below: Air warfare (air-to-air, surface-to-air); Electronic warfare (directed energy—lasers and high-powered microwave systems); and Surface warfare (surface-to-surface, air-to-surface, and subsurface-to-surface). A description of the munitions, targets, systems, and other material used during training and testing activities within these primary mission areas is provided in Appendix A (*Training and Testing Activities Descriptions*) of the 2020 PMSR DEIS/OEIS and summarized here.

Air warfare—The mission of air warfare is to destroy or reduce enemy air and missile threats (including unmanned airborne threats) and serves two purposes: To protect U.S. forces from attacks from the air and to gain air superiority. Air warfare provides U.S. forces with adequate attack warnings, while denying hostile forces the ability to gather intelligence about U.S. forces.

Aircraft conduct air warfare through radar search, detection, identification,

and engagement of airborne threats. Surface ships conduct air warfare through an array of modern anti-aircraft weapon systems such as aircraft-detecting radar, naval guns linked to radar-directed fire-control systems, surface-to-air missile systems, and radar-controlled guns for close-in point defense.

Testing of air warfare systems is required to ensure the equipment is fully functional under the conditions in which it will be used. Tests may be conducted on radar and other early-warning detection and tracking systems, new guns or gun rounds, and missiles. Testing of these systems may be conducted on new ships and aircraft, and on existing ships and aircraft following maintenance, repair, or modification. For some systems, tests are conducted periodically to assess operability. Additionally, tests may be conducted in support of scientific research to assess new and emerging technologies. Air-to-air scenarios involve the employment of an airborne weapon system against airborne targets. Missiles are fired from a fighter aircraft for both testing and training events. Surface-to-air scenarios evaluate the overall weapon system performance, warhead effectiveness, and software/hardware modifications or upgrades of ground-based and ship-based weapons systems. Missiles are fired from a ship or a land-based launcher against a variety of supersonic and subsonic airborne targets.

Electronic Warfare—The mission of electronic warfare is to degrade the enemy's ability to use electronic systems, such as communication systems and radar, and to confuse or deny them the ability to defend their forces and assets. Electronic warfare is also used to detect enemy threats and counter their attempts to degrade the electronic capabilities of the Navy. Typical electronic warfare activities include threat avoidance training, signals analysis for intelligence purposes, and use of airborne and surface electronic jamming devices (that block or interfere with other devices) to defeat tracking, navigation, and communications systems. Testing of electronic warfare systems is conducted to improve the capabilities of systems and ensure compatibility with new systems. Testing involves the use of aircraft, surface ships, and submarine crews to evaluate the effectiveness of electronic systems. Similar to training activities, typical electronic warfare testing activities include the use of airborne and surface electronic jamming devices (including testing chaff and flares; see Appendix A (*PMSR Scenario Descriptions*) of the 2020 PMSR DEIS/OEIS for a description of these devices) to defeat tracking and communications systems.

Surface Warfare—The mission of surface warfare is to obtain control of sea space from which naval forces may operate, and entails offensive action against other surface, subsurface, and air targets while also defending against enemy forces. In surface warfare, aircraft use guns, air-launched cruise missiles, or other precision-guided munitions; ships employ naval guns, and surface-to-surface missiles; and submarines attack surface ships using submarine-launched, anti-ship cruise missiles. Surface warfare training includes surface-to-surface gunnery and missile exercises, air-to-surface gunnery and missile exercises, and submarine missile launch activities, and other munitions against surface targets. Testing of weapons used in surface warfare is conducted to develop new technologies and to assess weapon performance and operability with new systems, such as unmanned systems. Tests include various air-to-surface guns and missiles, surface-to-surface guns and missiles, and bombing tests. Testing activities may be integrated into training activities to test aircraft or aircraft systems in the delivery of munitions on a surface target. In most cases the tested systems are used in the same manner in which they are used for Fleet training activities. Air-to-surface tests evaluate the integration of a missile or other weapons system into Department of Defense aircraft, or the performance of the missile/system itself. Missiles are fired from an aircraft against a variety of mobile seaborne targets and fixed aim points.

Summary Testing—Research, Development, Acquisition, Testing, and Evaluation of new technologies by the U.S. Department of Defense occurs continually to ensure that the U.S. military can counter new and anticipated threats. All new Navy systems and related equipment must be tested to ensure proper functioning before delivery to the Fleets for use. The PMSR Study Area is the Navy's primary ocean testing area for guided missiles and related ordnance. Test operations on the PMSR Study Area are conducted under highly controlled conditions, allowing for the collection of empirical data to evaluate the performance of a weapon system or subsystem. Testing conducted in the PMSR Study Area is important for maintaining readiness. Two of the U.S. Navy's Systems Commands, Naval Sea Systems Command (NAVSEA) and Naval Air Systems Command (NAVAIR), sponsor the majority of the testing within the PMSR Study Area. NAVSEA's five affiliated Program Executive Offices (PEOs) oversee over a dozen Program Manager, Sea offices that sponsor testing activities within the PMSR Study Area. NAVAIR's four affiliated PEOs, along with NAVAIR Headquarters-managed programs, oversee approximately 20 Program Managers and Air offices that also sponsor testing activities at PMSR.

Target and Missile Launches on SNI—The Navy plans to continue a target and missile launch program from two launch sites on SNI for testing and training activities associated with operations within the PMSR Study Area. Missiles vary from tactical and developmental weapons to target missiles used to test defensive strategies and other weapons systems. Some launch events involve a single missile or target, while others involve the launch of multiple missiles or targets in quick succession. The missiles or targets are launched from one of several fixed locations on the western end of SNI. Missiles or targets launched from SNI fly generally west, southwest, and northwest through the PMSR Study Area. The primary launch locations are the Alpha Launch Complex, located 190 meters (m) above sea level on the west-central part of SNI and the Building 807 Launch Complex, which accommodates several fixed and mobile launchers, at the western end of SNI at approximately 11 m above sea level. The Point Mugu airfield on the mainland, the airfield on SNI, and the target sites in the PMSR will be a routine part of launch operations.

Description of Stressors

The Navy uses a variety of platforms, weapons, and other devices, including ones used to ensure the safety of Sailors and Marines, to meet its mission. Training and testing with these systems may introduce acoustic (sound) energy or shock waves from explosives into the environment. The following subsections describe explosives detonated at or near the surface of the water and launch noise associated with missiles launched from SNI for marine mammals and their habitat (including prey species) within the PMSR Study Area. Because of the complexity of analyzing sound propagation in the ocean environment, the Navy relied on acoustic models in its environmental analyses and rulemaking/LOA application that considered sound source characteristics and varying ocean conditions across the PMSR Study Area. Stressor/resource interactions that were determined to have de minimis or no impacts (*i.e.,* vessel, aircraft, or weapons noise) were

not carried forward for analysis in the Navy's rulemaking/LOA application. NMFS reviewed the Navy's analysis and conclusions on de minimis sources and finds them complete and supportable.

Acoustic stressors include incidental sources of broadband sound produced as a byproduct of vessel movement and use of weapons or other deployed objects. Explosives also produce broadband sound but are characterized separately from other acoustic sources due to their unique hazardous characteristics. There are no sonar activities proposed in the PMSR Study Area. Characteristics of explosives are described below.

In order to better organize and facilitate the analysis of various explosives used for training and testing by the Navy, including sonar and other transducers and explosives, a series of source classifications, or source bins, was developed by the Navy. The source classification bins do not include the broadband sounds produced incidental to vessel or aircraft transits, weapons firing, and bow shocks.

The use of source classification bins provides the following benefits:

- Provides the ability for new sensors or munitions to be covered under existing authorizations, as long as those sources fall within the parameters of a bin;
- Improves efficiency of source utilization data collection and reporting requirements anticipated under the MMPA authorizations;
- Ensures a conservative approach to all impact estimates, as all sources within a given class are modeled as the most impactful source (having the largest net explosive weight) within that bin;
- Allows analyses to be conducted in a more efficient manner, without any compromise of analytical results; and
- Provides a framework to support the reallocation of source usage (number of explosives) between different source bins, as long as the total numbers of takes remain within the overall analyzed and authorized limits. This flexibility is required to support evolving Navy training and testing requirements, which are linked to real world events.

Explosives

This section describes the characteristics of explosions during naval training and testing. The activities analyzed in the Navy's rulemaking/LOA application that use explosives are described in Appendix A (*PMSR Scenario Descriptions*) of the 2020 PMSR DEIS/OEIS.

To more completely analyze the results predicted by the Navy's acoustic effects model from detonations occurring in-air above the ocean surface, it is necessary to consider the transfer of energy across the air-water interface.

Detonation of an explosive in air creates a supersonic high pressure shock wave that expands outward from the point of detonation (Kinney & Graham, 1985; Swisdak, 1975). The near-instantaneous rise from ambient pressure to an extremely high peak pressure is what makes the explosive shock wave potentially injurious to an animal experiencing the rapid pressure change (U.S. Department of the Navy, 2017e). Farther from an explosive, the peak pressures decay and the explosive waves propagate as an impulsive, broadband sound. As the shock wave-front travels away from the point of detonation, it slows and begins to behave as an acoustic wave-front travelling at the speed of sound. Whereas a shock wave from a detonation in-air has an abrupt peak pressure, that same pressure disturbance when transmitted through the water surface results in an underwater pressure wave that begins and ends more gradually compared with the in-air shock wave, and diminishes with increasing depth and distance from the source (Bolghasi *et al.,* 2017; Chapman and Godin, 2004; Cheng and Edwards, 2003; Moody, 2006; Richardson *et al.,* 1995; Sawyers, 1968; Sohn *et al.,* 2000; Swisdak, 1975; Waters and Glass, 1970; Woods *et al.,* 2015). The propagation of the shock wave in air and then transitioning underwater, is very different from a detonation occurring deep underwater where there is little interaction with the surface. In the case of an underwater detonation occurring just below the surface, a portion of the energy from the detonation would be released into the air (referred to as surface blow off), and at greater depths a pulsating, air-filled cavitation bubble would form, collapse, and reform around the detonation point (Urick, 1983). The Navy's acoustic effects model for analyzing underwater impacts on marine species does not account for the loss of energy due to surface blow-off or cavitation at depth. Both of these phenomena would diminish the magnitude of the acoustic energy received by an animal under real-world conditions (U.S. Department of the Navy, 2018c).

Propagation of explosive pressure waves in water is highly dependent on environmental characteristics such as bathymetry, bottom type, water depth, temperature, and salinity, which affect how the pressure waves are reflected, refracted, or scattered; the potential for reverberation; and interference due to multi-path propagation. In addition, absorption greatly affects the distance over which higher-frequency components of explosive broadband noise can propagate. Because of the complexity of analyzing sound propagation in the ocean environment, the Navy relies on acoustic models in its environmental analyses that consider sound source characteristics and varying ocean conditions across the PMSR Study Area (U.S. Department of the Navy, 2019a).

Missiles, rockets, bombs, and medium and large-caliber projectiles may be explosive or nonexplosive, depending on the objective of the testing or training activity in which they are used. The proposed activities do not include explosive munitions used underwater. Missiles, bombs, and projectiles that detonate at or near (within 10 m of) the water's surface are considered for the potential impact they may have on marine mammals. All explosives used during testing and training activities within the PMSR Study Area would detonate at or near the surface or in-air. Several parameters influence the acoustic effect of an explosive: The weight of the explosive warhead, the type of explosive material, the boundaries and characteristics of the propagation medium(s); and the detonation depth underwater and the depth of the receiver (*i.e.,* marine mammal). The net explosive weight (NEW), which is the explosive power of a charge expressed as the equivalent weight of trinitrotoluene (TNT), accounts for the first two parameters.

Land-Based Launch Noise on San Nicolas Island

Noise from target and missile launches on SNI can also occur. These ongoing activities affecting pinnipeds hauled out in the vicinity of launch sites have been analyzed previously (NMFS 2014, 2019, 2020) and are summarized below as part of the Navy's rulemaking/LOA application. As part of previous authorizations, the Navy could conduct up to 40 launch events annually from SNI, but the total may be less than 40 depending on operational requirements. Launch timing will be determined by operational, meteorological, and logistical factors. Up to 10 of the 40 launches may occur at night, but this is also dependent on operational requirements, and night-time launches are only conducted when required by test objectives.

Vessel Strike

Vessel strikes have the potential to result in incidental take from serious injury and/or mortality. Vessel strikes are not specific to any particular training or testing activity, but rather are a limited, sporadic, and incidental result of Navy vessel movement within a study area. Vessel strikes from commercial, recreational, and military vessels are known to seriously injure and occasionally kill cetaceans (Abramson *et al.,* 2011; Berman-Kowalewski *et al.,* 2010; Calambokidis, 2012; Douglas *et al.,* 2008; Laggner, 2009; Lammers *et al.,* 2003; Van der Hoop *et al.,* 2012; Van der Hoop *et al.,* 2013), although reviews of the literature on ship strikes mainly involve collisions between commercial vessels and whales (Jensen and Silber, 2003; Laist *et al.,* 2001). Vessel speed, size, and mass are all important factors in determining both the potential likelihood and impacts of a vessel strike to marine mammals (Conn and Silber, 2013; Gende *et al.,* 2011; Silber *et al.,* 2010; Vanderlaan and Taggart, 2007; Wiley *et al.,* 2016). For large vessels, speed and angle of approach can influence the severity of a strike.

The number of Navy vessels in the PMSR Study Area at any given time varies and is dependent on scheduled testing and training requirements. Most activities include either one or two vessels and may last from a few hours to two weeks. Vessel movement as part of the proposed activities would be widely dispersed throughout the PMSR Study Area. Vessels used include ships (*e.g.,* aircraft carriers, surface combatants), support craft, and submarines. Vessel size ranges from 15 ft to over 1,000 ft, and vessels transit at speeds that are optimal for fuel conservation or to meet operational requirements. In comparison, commercial ship size can range from very large oil tankers that are over 1,000 ft in length to the smaller general cargo ships with lengths that can be under 300 ft. Large Navy ships (greater than 18 m in length) generally operate at average speeds of 10–15 knots, and submarines generally operate at speeds in the range of 8–13 knots. Small Navy craft (for purposes of this discussion, less than 18 m in length), which are all support craft, have much more variable speeds (0–50+ knots, dependent on the mission). While these speeds are averages that are representative of most events, some vessels need to operate outside of these parameters. For example, to produce the required relative wind speed over the flight deck, an aircraft carrier engaged in flight operations must adjust its speed through the water accordingly. Also, there are other instances, such as launch and recovery of a small rigid-hull inflatable boat, or retrieval of a target when vessels would be dead in the water, or moving slowly ahead to maintain steerage. There are a few specific testing and training events that include high-speed requirements for certain systems for which vessels would operate at higher speeds.

Refer to Chapter 3, *Affected Environment and Environmental Consequences* of the 2020 PMSR DEIS/OEIS for additional details on vessel use and movement in the PMSR Study Area.

Detailed Description of the Specified Activities

Proposed Training and Testing Activities

Training and testing activities would be conducted at sea, in designated airspace, and on SNI, within the PMSR Study Area.

The proposed training and testing activities are deemed necessary to accomplish Naval Air Systems Command's mission of providing for the safe and secure collection of decision-quality data; and developing, operating, managing and sustaining the interoperability of the Major Range Test Facility Base at the PMSR into the foreseeable future. Collectively, the proposed training and testing activities support current and projected military readiness requirements into the foreseeable future, as shown in Table 1.

TABLE 1—MAXIMUM NUMBER OF ANNUAL PROPOSED ACTIVITIES IN THE PMSR STUDY AREA

[Inclusive of SNI launches]

Activity	Activity sub category	Proposed activities
Aerial Targets (# of targets)		176
Surface Targets (# of targets)		522
Ordnance (# of ordnance)	Bombs	30
	Gun Ammunition	281,230
	Missiles	584
	Rockets	40

Most of the factors influencing frequency and types of activities are fluid in nature (*i.e.,* continually evolving and changing), and the annual activity level in the PMSR Study Area will continue to fluctuate. The number of events may not be the same year to year, but the maximum number of events were predicted annually. Total annual events would not exceed what is proposed in Table 1 above. Proposed training and testing duration and frequency varies depending on Fleet requirements, and funding and does not occur on a predictable annual cycle.

Fleet training activities occur over scheduled continuous and uninterrupted blocks of time, focusing on the development of core capabilities/skills. Training events in the PMSR Study Area are conducted to ensure Navy forces can sustain their training cycle requirements. Primarily, changes occur with increases or decreases in annual operational tempo of activities, in addition to changes in the types of aircraft, vessels, targets, ordnance, and tasks that are actions or processes performed as part of Navy operations.

Future testing depends on scientific and technological developments that are not easy to predict, and experimental designs may evolve with emerging science and technology. Even with these challenges, the Navy makes every effort to forecast all future testing requirements. As a result, testing requirements are driven by the need to support Fleet readiness based on emerging national security interests, and alternatives must have sufficient annual capacity to conduct the research, development, and testing of new systems and technologies, with upgrades, repairs, and maintenance of existing systems.

Fleet Training

Fleet training within the PMSR Study Area includes the same types of warfare of the primary mission areas. Training conducted in conjunction with testing activities provide Fleet operators unique opportunities to train with ship and

aircraft combat weapon systems and personnel in scripted warfare environments, including live-fire events. For example, Fleet training would occur while testing a weapon system, in which Sailors would experience (be trained in) the use of the system being tested. Combat ship crews train in conjunction with scheduled ship testing and qualification trials, to take advantage of the opportunity to provide concurrent training and familiarization for ship personnel in maintaining and operating installed equipment, identifying design problems, and determining deficiencies in support elements (*e.g.,* documentation, logistics, test equipment, or training). Live and inert weapons, along with chaff, flares, jammers, and lasers may be used.

Typically concurrent with testing, surface training available within the PMSR Study Area includes tracking events, missile-firing events, gun-firing events, high-speed anti-radiation missile events, and shipboard self-defense system training, (*e.g.,* Phalanx (Close-in Weapons System), Rolling Airframe Missile, and Evolved Sea Sparrow Missile). These events are limited in scope and generally focus on one or two tasks. Missiles may be fired against subsonic, supersonic, and hypersonic targets. Certain training events designed for single ships are conducted to utilize unique targets only available for training in the PMSR Study Area.

Aviation warfare training conducted in the PMSR Study Area, categorized as unit-level training, is designed for a small number of aircraft up to a squadron of aircraft. These training events occur within the PMSR Study Area, as it is the only West Coast Navy venue to provide powered air-to-air targets. They are limited in scope and generally focus on one or two tasks. These scenarios require planning and coordination to ensure safe and effective training.

Combat Systems Testing

The System Command Program Executive Offices are tasked with conducting extensive combat systems tests and trials on each new platform prior to releasing the platform to the Fleet, to include ships that have been in an extended upgrade or overhaul status. The PMSR Study Area is the preferred site to conduct these tests, as it offers a venue for a thorough evaluation of combat and weapons system performance through the actual employment of weapon systems. The comprehensive tests are conducted by the responsible Program Manager, with close cooperation from the Fleet Type Commanders (Surface Force, Air Force, or Submarine Force). Frequent tests conducted in the PMSR Study Area are Combat Systems Ship Qualification Trials (CSSQTs). This is a series of comprehensive tests and trials designed to show that the equipment and systems included in the CSSQT program meet combat system requirements. Live and inert weapons, along with chaff, flares, jammers, and lasers may be used. Naval Sea Systems Command has recently developed two new reporting programs to test and evaluate combat and weapons system performance on new classes of ships, resulting in an increased tempo in the PMSR Study Area.

Explosives At-Surface or Near the Surface

Missiles, bombs, and projectiles that detonate at or near (within 10 m of) the water's surface are considered for the potential that they could result in an acoustic impact to marine mammals that may be underwater and nearby. The maximum number of explosives and the appropriate events modeling bin for the proposed activities are provided in Table 2 for the proposed activities in the PMSR Study Area. Table 2 describes the maximum number of explosives that could be used in any year under the proposed training and testing activities. Under the proposed activities, bin use could vary annually (but would not exceed the maximum), and the seven-year totals for the proposed training and testing activities take into account that annual variability.

TABLE 2—EXPLOSIVES DETONATING AT OR NEAR THE SURFACE BY BINS ANNUALLY AND FOR A SEVEN-YEAR PERIOD FOR TRAINING AND TESTING ACTIVITIES WITHIN THE PMSR STUDY AREA

[Inclusive of SNI Launches]

Primary mission area activity scenarios	Explosive bin	Munition type	Maximum number of high explosive munitions used annually	Maximum number of high explosives used over a 7-year period proposed activity
Surface-Surface	E1	Gunnery	22,110	154,770
	E3	Gunnery	4,909	34,363
	E5	Gunnery	1,666	11,662
Air-Surface	E5	Rockets	24	168
Air-Surface; Surface-Air	E6	Missiles	72	504
Air-Surface	E7	Missiles, Bombs	45	315
Air-Surface; Surface-Air	E8	Missiles	45	315
Air-Surface; Surface-Surface	E9	Missiles, Bombs, Rockets	58	406
Surface-Surface; Subsurface-Surface	E10	Missiles	13	91

Note: Bins E1–E5 are gunnery events that involve guns with high rates of firing ''clusters'' of munitions (*e.g.,* >80–200 rounds per minute for Bin E1, 500–650 rounds per minute for Bin E3, and 16–20 rounds per minutes for Bin E5), hence the high number of HE munitions used during these activities. The numbers above do not reflect the actual number of events, which can vary and typically last 1–3 hrs. The increase in tempo under the Proposed Action is a result of a proposed increase in Combat Systems Ship Qualification Trials as discussed in Section 2.2.1 (Current and Proposed Activities) of the 2020 PMSR DSEIS/OEIS.

The explosive energy released by detonations in air has been well studied, and basic methods are available to estimate the explosive energy exposure with distance from the detonation (*e.g.,* U.S. Department of the Navy, 1975). In air, the propagation of impulsive noise from an explosion is highly influenced by atmospheric conditions, including temperature and wind. While basic estimation methods do not consider the unique environmental conditions that

may be present on a given day, they allow for approximation of explosive energy propagation under neutral atmospheric conditions. Explosions that occur during air warfare would typically be at a sufficient altitude that a large portion of the sound refracts upward due to cooling temperatures with increased altitude. Based on an understanding of the explosive energy released by detonations in air, detonations occurring in air at altitudes greater than 10 m are not likely to result in acoustic impacts to marine mammals and thus are not carried forward in the analysis.

Missile Launch Activities on SNI

Missiles can be propelled by either liquid-fueled or solid-fueled rocket engines; however, solid fuel is preferred for military uses. Such engines commonly propel tactical guided missiles (*i.e.,* missiles intended for use within the immediate area) toward their targets at twice the speed of sound. Cruise or ballistic missiles are designed to strike targets far beyond the immediate area, and are therefore also known as strategic missiles. Cruise missiles are jet-propelled at subsonic speeds throughout their flights, while ballistic missiles are rocket-powered only in the initial (boost) phase of flight, after which they follow an arcing trajectory to the target. As gravity pulls the ballistic warhead back to Earth, speeds of several times the speed of sound are reached. Ballistic missiles are most often categorized as short-range, medium-range, intermediate-range, and intercontinental ballistic missiles. Missile weights range between 54–2,900 kilograms (kg), but total weight is dependent on fuel or boosters.

Table 3 shows the number of launches that have occurred at SNI since 2001 and the number of launch events that have occurred during the associated comprehensive reporting timeframes. There have not been more than 25 launch events conducted in any given year since 2001. However, as part of the proposed activities, 40 launch events per year from SNI involving various missiles and aerial targets are requested for take authorization.

TABLE 3—THE TOTAL NUMBER OF LAUNCHES THAT HAVE OCCURRED SINCE 2001 AT SNI

Time period	Number of launches
August 2001 to March 2008	77
June 2009 to June 2014	36
June 2014 to June 2019	27

A combination of missiles and targets are launched from SNI, including aerial targets, surface-to-surface missiles, and surface-to-air missiles, with aerial targets representing the majority of the launches from SNI.

The following descriptions are representative of some of the types of targets and missiles typically launched from SNI. While this list is not inclusive of all potential missiles and targets that could be launched annually, the descriptions and the sound profiles are representative of the diversity of the types of missiles and targets typically launched. For information on the sound levels these missiles produce please refer to Section 1.2 of the application.

GQM–163A ''Coyote''—The Coyote, designated GQM–163A, is an expendable Supersonic Sea-Skimming Target (SSST) powered by a ducted-rocket ramjet. This missile is designed to provide a ground-launched, aerial target system to simulate a supersonic, sea-skimming Anti-Ship Cruise missile threat. Coyote launches are expected to be the primary large missile launched from SNI over the next several years. Coyotes are launched from previously installed launchers at the inland location (Alpha Launch Complex) on SNI.

Standard Missile (SM–2, SM–3, SM–6)—The Standard family of missiles consists of a range of air defense missiles including supersonic, medium, and extended range surface-to-air and surface-to-surface missiles. The Standard Missile 3 Block IIA (SM–3) is a ship-based missile system used to intercept short- to intermediate-range ballistic missiles as a part of the Aegis Ballistic Missile Defense System. Although primarily designed as an antiballistic missile defensive weapon, the SM–3 has also been employed in an anti-satellite capacity against a satellite at the lower end of low Earth orbit. Similarly, the SM–6 is a vertically launched, extended range missile compatible with the Aegis Weapon System to be used against extended range threats. The SM–6 Block I/IA combines the tested legacy of the SM–2 propulsion system and warhead with an active radio frequency seeker modified from the AIM–120 Advanced Medium Range Air-to-Air Missile. The new features allow for over-the-horizon engagements, enhanced capability at extended ranges and increased firepower. To date, only the SM–3 has been launched from SNI.

Other Missiles That May Be Used During Launch Events—The Navy may also launch other missiles to simulate various types of threat missiles and aircraft and to test other systems. For example, Tactical Tomahawks were launched from Building 807 Launch Complex in 2018 and 2019. Under this proposed rule, missiles launched from SNI would have sound source levels the same or lower than missiles described above or previously launched from the island.

Vessel Movement

The number and type of scheduled Navy vessels or Navy support vessels operating within the PMSR Study Area depends on the requirements for mission-essential activities, such as the test and evaluation of new weapon systems or qualification trials for upgraded existing ships. The types of Navy vessels or Navy support vessels operating within the PMSR are highly variable and range from small work boats used for nearshore work to major Navy combatants, up to and including aircraft carriers. Navy activities are conducted in large subdivisions of the total PMSR Study Area, and blocks of range times are allocated based on activity requirements. Most activities include either one or two vessels and may last from a few hours to two weeks. Vessel movement as part of the proposed activities would be widely dispersed throughout the PMSR Study Area.

The PMSR Study Area military vessel activity can be divided into two categories: Project ships and support boats. Project ships are larger Navy combatant vessels, such as destroyers, cruisers, or any other commissioned Navy or foreign military ship directly involved in events. They may operate anywhere within the PMSR Study Area depending on activity needs, although most ship operations occur within 60 nautical miles (nmi) of SNI. Most project ships and scheduled training ships operating in the PMSR Study Area transit there from off-range *(e.g.,* San Diego). Support boats are smaller vessels directly involved in test activities and operate from the Port Hueneme Harbor. While they may also operate throughout the PMSR Study Area, support boat operations occur mainly within the range areas receiving the most use. Smaller support boats have limited range and usually operate close to shore near Point Mugu and SNI. The activity level of ships or boats is characterized by a ship or boat event.

The Navy tabulated annual at-sea vessel steaming days for training and testing activities projected for the PMSR Study Area. Approximately 333 annual events of Navy at-sea vessel usage will occur over 2,085 hours (approximately 87 at-sea days) in the PMSR Study Area (Table 4). In comparison to the Southern

California portion (SOCAL) of the Hawaii-Southern California Training and Testing (HSTT) Study Area, the estimated number of annual at-sea days in the PMSR Study Area is less than 3 percent of what occurs in SOCAL annually.

TABLE 4—ANNUAL AT-SEA VESSEL STEAMING DAYS FOR TRAINING AND TESTING ACTIVITIES PROJECTED FOR THE PMSR STUDY AREA

Vessel	Ship type	Proposed activity	
		Events	Hours
CG	Guided Missile Cruiser	41	275
DDG–51	Guided Missile Destroyer	36	132
LHA	Amphibious Assault Ship	40	200
SDTS	Self-Defense Test Ship	50	190
WMSL–751/OPC	Coast Guard Cutter	6	28
LCS Variant (LCS 1)	Littoral Combat Ship	40	360
LCS Variant (LCS 2)		40	360
FF	Future Frigate	40	360
DDG 1000 Zumwalt Class	Guided Missile Destroyer	3	30
LHD	Amphibious Assault Ship	4	13
LPD	Amphibious Transport Deck	4	13
LSD	Dock Landing Ship	4	13
CVN	Nuclear-Powered Aircraft Carrier	6	16
SSBN	Ballistic Missile Submarine	19	95
Total		333	2,085

Additional details on Navy at-sea vessel movement are provided in the 2020 PMSR DEIS/OEIS.

Standard Operating Procedures

For training and testing to be effective, personnel must be able to safely use their sensors and weapon systems as they are intended to be used in military missions and combat operations and to their optimum capabilities. Navy publishes or broadcasts standard operating procedures via numerous naval instructions and manuals, including but not limited to the following:

- Ship, submarine, and aircraft safety manuals;
- Ship, submarine, and aircraft standard operating manuals;
- Fleet Area Control and Surveillance Facility range operating instructions;
- Fleet exercise publications and instruction;
- Naval Air Warfare Center Weapons Division (NAWCWD) and Naval Sea Systems Command test range safety and standard operating instructions;
- Navy instrumented range operating procedures;
- Naval shipyard sea trial agendas;
- Research, development, test, and evaluation plans;
- Naval gunfire safety instructions;
- Navy planned maintenance system instructions and requirements;
- Federal Aviation Administration regulations;
- International Regulations for Preventing Collisions at Sea;
- Range safety standard operating procedures and instructions for explosive munitions; and
- Ammunition and Explosive Operations standard operating procedures.

Because standard operating procedures are essential to safety and mission success, the Navy considers them to be part of the proposed Specified Activities, and has included them in the environmental analysis (see Chapter 3, *Affected Environment and Environmental Consequences,* of the 2020 PMSR DSEIS/OEIS for further details).

Description of Marine Mammals and Their Habitat in the Area of the Specified Activities

Marine mammal species that have the potential to occur in the PMSR Study Area are presented in Table 5 along with an abundance estimate, an associated coefficient of variation value, and best and minimum abundance estimates. The Navy requests authorization to take individuals of marine mammal species by Level A and Level B harassment incidental to training and testing activities from detonations of explosives occurring at or near the surface and launch activities on SNI (Table 5).

Information on the status, distribution, abundance, population trends, habitat, and ecology of marine mammals in the PSMR Study Area also may be found in Section 4 of the Navy's rulemaking/LOA application. NMFS reviewed this information and found it to be accurate and complete. Additional information on the general biology and ecology of marine mammals is included in the 2020 PMSR DEIS/OEIS. Table 5 incorporates data from the U.S. Pacific and the Alaska Marine Mammal Stock Assessment Reports (SARs; Carretta *et al.,* 2019; Muto *et al.,* 2019) and the most recent revised data in the draft SARs (see *https://www.fisheries.noaa.gov/national/marine-mammal-protection/draft-marine-mammal-stock-assessment-reports*). Table 5 also incorporates the best available science, including monitoring data from the Navy's marine mammal research efforts.

Species Not Included in the Analysis

The species carried forward for analysis (and described in Table 5 below) are those likely to be found in the PMSR Study Area based on the most recent data available, and do not include species that may have once inhabited or transited the area but have not been sighted in recent years (*e.g.,* species which were extirpated from factors such as 19th and 20th century commercial exploitation). Several species that may be present in the northwest Pacific Ocean have a low probability of presence in the PMSR Study Area. These species are considered extralimital (not anticipated to occur in the Study Area) or rare (occur in the Study Area sporadically, but sightings are rare). Species unlikely to be present in the PMSR Study Area or that are rare include the North Pacific right whale (*Eubalaena japonica*), rough-toothed dolphin (*Steno bredanensis*), and Steller sea lion

(*Eumetopias jubatus*), and these species have all been excluded from subsequent analysis for the reasons described below. There have been only four sightings, each of a single Northern Pacific right whale, in Southern California waters over approximately the last 30 years (in 1988, 1990, 1992, and 2017) (Brownell *et al.,* 2001; Carretta *et al.,* 1994; National Marine Fisheries Service, 2017b; WorldNow, 2017). Sightings off California are rare, and historically, even during the period of U.S. West Coast whaling through the 1800s, right whales were considered uncommon to rare off California (Reeves and Smith, 2010; Scammon, 1874). The range of the rough-toothed dolphin is known to occasionally include the Southern California coast during periods of warmer ocean temperatures, but there is no recognized stock for the U.S. West Coast (Carretta *et al.,* 2019c). Several strandings were documented for this species in central and Southern California between 1977 and 2002 (Zagzebski *et al.,* 2006), but this species has not been observed during seven systematic ship surveys from 1991 to 2014 off the U.S. West Coast (Barlow, 2016). During 16 quarterly ship surveys off Southern California from 2004 to 2008, there was one encounter with a group of nine rough-toothed dolphins, which was considered an extralimital occurrence (Douglas *et al.,* 2014). Steller sea lions range along the north Pacific from northern Japan to California (Perrin *et al.,* 2009b), with centers of abundance and distribution in the Gulf of Alaska and Aleutian Islands (Muto et al., 2019). San Miguel Island and Santa Rosa Island were, in the past, the southernmost rookeries and haulouts for the Steller sea lions, but their range contracted northward in the 20th century, and now Año Nuevo Island off central California is currently the southernmost rookery (Muto *et al.,* 2019; National Marine Fisheries Service, 2008; Pitcher *et al.,* 2007). Steller sea lions pups were known to be born at San Miguel Island up until 1981 (National Marine Fisheries Service, 2008; Pitcher *et al.,* 2007), and so, as the population continues to increase, it is anticipated that the Steller sea lions may re-establish a breeding colony on San Miguel Island in the future. In the Channel Islands and vicinity, despite the species' general absence from the area, a consistent but small number of Steller sea lions (one to two individuals at a time) have been sighted in recent years. Aerial surveys for pinnipeds in the Channel Islands from 2011 to 2015 encountered a single Steller sea lion at SNI in 2013 (Lowry *et al.,* 2017). NMFS agrees with the Navy's assessment that these species are unlikely to occur in the PMSR Study Area and they are not discussed further.

Southern sea otter (*Enhydra lutris neris*) occurs nearshore off the coast of central California, ranging from Half Moon Bay in the north to Point Conception and at SNI (Tinker *et al.,* 2006; Tinker and Hatfield, 2016; U.S. Geological Survey, 2014). Southern sea otters are managed by the U.S. Fish and Wildlife Service and therefore are not discussed further.

TABLE 5—MARINE MAMMAL OCCURRENCE WITHIN THE PMSR STUDY AREA

Common name	Scientific name [1]	Stock	Status		Stock abundance (CV)/N_{min}; most recent abundance survey [2]	PBR [3]	Annual M/SI [4]
			MMPA	ESA			
Blue whale	*Balaenoptera musculus*	Eastern North Pacific	Depleted	Endangered	1,496 (0.44)/1,051; 2014.	1.2	≥19.4
Bryde's whale	*Balaenoptera brydei/edeni.*	Eastern Tropical Pacific			unk; na	unk	unk
Fin whale	*Balaenoptera physalus*	California, Oregon, and Washington.	Depleted	Endangered	9,029 (0.12)/8,127; 2014.	81	≥43.7
Gray whale	*Eschrichtius robustus*	Eastern North Pacific			26,960 (0.05)/25,849; 2016.	801	131
		Western North Pacific	Depleted	Endangered	290 (na)/271; 2016.	0.12	unk
Humpback whale	*Megaptera novaeangliae.*	California, Oregon, Washington.	Depleted	Threatened/Endangered [1].	2,900 (0.05)/2,784; 2019.	16.7	≥42.1
Minke whale	*Balaenoptera acutorostrata.*	California, Oregon, and Washington.			636 (0.72)/369; 2014.	3.5	≥1.3
Sei whale	*Balaenoptera borealis*	Eastern North Pacific	Depleted	Endangered	519 (0.4)/374; 2014.	0.75	≥0.2
Baird's beaked whale	*Berardius bairdii*	California, Oregon, and Washington.			2,697 (0.6)/1,633; 2014.	16	0
Common Bottlenose dolphin.	*Tursiops truncatus*	California Coastal			453 (0.06)/346; 2011.	2.7	≥2.0
		California, Oregon, and Washington Offshore.			1,924 (0.54)/1,255; 2014.	11	≥1.6
Cuvier's beaked whale	*Ziphius cavirostris*	California, Oregon, and Washington.			3,274 (0.67)/2,059; 2014.	21	<0.1
Dall's porpoise	*Phocoenoides dalli*	California, Oregon, and Washington.			25,750 (0.45)/17,954; 2014.	172	0.3
Dwarf sperm whale	*Kogia sima*	California, Oregon, and Washington.			unk; 2014	und	0
Harbor Porpoise	*Phocoena phocoena*	Morro Bay			2,917 [5] (0.41)/1,384; 2012.	[5] 66	[5] ≥0.4
Killer whale	*Orcinus orca*	Eastern North Pacific Offshore.			300 (0.10)/276; 2012.	2.8	0
		Eastern North Pacific Transient/West Coast Transient [6].			349 na/349; 2018	3.5	0.4
Long-beaked common dolphin.	*Delphinus capensis*	California			101,305 (0.49)/68,432; 2014.	657	≥35.4
Mesoplodont beaked whales [7].	*Mesoplodon spp*	California, Oregon, and Washington.			3,044 (0.54)/1,967; 2014.	20	0.1
Northern right whale dolphin.	*Lissodelphis borealis*	California, Oregon, and Washington.			26,556 (0.44)/18,608; 2014.	179	3.8
Pacific white-sided dolphin.	*Lagenorhynchus obliquidens.*	California, Oregon, and Washington.			26,814 (0.28)/21,195; 2014.	191	7.5

TABLE 5—MARINE MAMMAL OCCURRENCE WITHIN THE PMSR STUDY AREA—Continued

Common name	Scientific name [1]	Stock	Status		Stock abundance (CV)/N_{min}; most recent abundance survey [2]	PBR [3]	Annual M/SI [4]
			MMPA	ESA			
Pygmy sperm whale	*Kogia breviceps*	California, Oregon, and Washington.			4,111 (1.12)/1,924; 2014.	19	0
Risso's dolphins	*Grampus griseus*	California, Oregon, and Washington.			6,336 (0.32)/4,817; 2014.	46	≥3.7
Short-beaked common dolphin.	*Delphinus delphis*	California, Oregon, and Washington.			969,861 (0.17)/ 839,325; 2014.	8,393	≥40
Short-finned pilot whale	*Globicephala macrorhynchus.*	California, Oregon, and Washington.			836 (0.79)/466; 2014.	4.5	1.2
Sperm whale	*Physeter macrocephalus.*	California, Oregon, and Washington.	Depleted	Endangered	1,997 (0.57)/1,270; 2014.	2.5	0.6
Striped dolphin	*Stenella coeruleoalba*	California, Oregon, and Washington.			29,211 (0.20)/ 24,782; 2014.	238	≥0.8
Harbor seal	*Phoca vitulina*	California			30,968 na/27,348; 2012.	1,641	43
Northern elephant seal	*Mirounga angustirostris*	California			179,000 na/ 81,368; 2010.	4,882	8.8
California sea lion	*Zalophus californianus*	U.S. Stock			257,606 na/ 233,515; 2014.	14,011	≥321
Northern fur seal	*Callorhinus ursinus*	California			14,050 na/7,524; 2013.	451	1.8
Guadalupe fur seal	*Arctocephalus townsendi.*	Mexico to California	Depleted	Threatened	34,187 unk/ 31,109; 2013.	1,602	≥3.8

[1] Taxonomy follows Committee on Taxonomy (2018).
[2] CV is coefficient of variation; N_{min} is the minimum estimate of stock abundance. The most recent abundance survey that is reflected in the abundance estimate is presented; there may be more recent surveys that have not yet been incorporated into the estimate.
[3] PBR is the Potential biological removal, defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population size (OSP).
[4] These values, found in NMFS's SARs, represent annual levels of human-caused mortality plus serious injury from all sources combined (*e.g.,* commercial fisheries, subsistence hunting, ship strike). Annual M/SI often cannot be determined precisely and is in some cases presented as a range.
[5] The abundance number as presented is from the ''fine-scale transects'' as documented in Forney *et al.* (2014). PBR and M/SI are from draft 2020 SAR for the Pacific (Carretta *et al.,* 2020).
[6] This stock is mentioned briefly in the Pacific Stock Assessment Report and referred to as the ''Eastern North Pacific Transient'' stock, however, the Alaska Stock Assessment Report contains assessments of all transient killer whale stocks in the Pacific, and the Alaska Stock Assessment Report refers to this same stock as the ''West Coast Transient'' stock (Muto *et al.,* 2019).
[7] The six *Mesoplodont* beaked whale species off California are *M. densirostris, M. carlhubbsi, M. ginkgodens, M. perrini, M. peruvianus, M. stejnegeri.*
Notes: na = not available; unk = unknown ; und = undetermined or not provided in the draft 2020 SAR for the Pacific (Carretta *et al.,* 2020) (Carretta *et al.,* 2019b).

Further, after Navy completed their modeling analysis, the following species/stocks had zero calculated estimated takes: Bryde's whale (Eastern Tropical Pacific), Gray whale (Western North Pacific), Sei whale (Eastern North Pacific), Baird's beaked whale (California, Oregon, and Washington), Bottlenose dolphin (California Coastal), Cuvier's beaked whale (California, Oregon, and Washington), Harbor Porpoise (Morro Bay), Killer whale (Eastern North Pacific Offshore, Eastern North Pacific Transient or West Coast Transient), Mesoplodont spp. (California, Oregon, and Washington), Short-finned pilot whale (California, Oregon, and Washington), and Northern fur seal (California). NMFS agrees with the Navy's analysis; therefore, these species are excluded from further analysis.

Below, we include additional information about the marine mammals in the area of the Specified Activities that informs our analysis, such as identifying known areas of important habitat or behaviors, or where Unusual Mortality Events (UME) have been designated.

Critical Habitat

The statutory definition of occupied critical habitat refers to ''physical or biological features essential to the conservation of the species,'' but the ESA does not specifically define or further describe these features. ESA-implementing regulations at 50 CFR 424.02 (as amended, 84 FR 45020; August 27, 2019), however, define such features as follows: The features that occur in specific areas and that are essential to support the life-history needs of the species, including but not limited to, water characteristics, soil type, geological features, sites, prey, vegetation, symbiotic species, or other features. A feature may be a single habitat characteristic, or a more complex combination of habitat characteristics. Features may include habitat characteristics that support ephemeral or dynamic habitat conditions. Features may also be expressed in terms relating to principles of conservation biology, such as patch size, distribution distances, and connectivity.

On April 21, 2021, NMFS issued a final rule to designate critical habitat in nearshore waters of the North Pacific Ocean for the endangered Central America DPS and the threatened Mexico DPS of humpback whales (86 FR 21082). Critical habitat for the Central America DPS and Mexico DPS was established within the California Current Ecosystem (CCE) off the coasts of California, Oregon, and Washington, representing areas of key foraging habitat. Prey of sufficient quality, abundance, and accessibility within humpback whale feeding areas to support feeding and population growth is identified an essential feature to the conservation of these whales. Because humpback whales only rarely feed on breeding grounds and during migrations, humpback whales must have access to adequate prey resources within their feeding areas to build up their fat stores and meet the nutritional and energy demands associated with individual survival, growth, reproduction, lactation, seasonal migrations, and other normal life functions. Given that each of three humpback whale DPSs very clearly rely on the feeding areas while within U.S. waters, prey has been identified as a biological feature that is essential to the conservation of the whales. The prey essential feature was specifically defined as follows: Prey species, primarily euphausiids and small pelagic schooling fishes of

sufficient quality, abundance, and accessibility within humpback whale feeding areas to support feeding and population growth.

NMFS considered 19 units of habitat as critical habitat for the listed humpback whale DPSs. There is overlap between the PMSR Study Area and portions of the habitat designated Units 17 and 18 (see Figure 3.7–5 of the 2020 PMSR DEIS/OEIS) in the final critical habitat rule (86 FR 21082), which are described below.

Unit 17, referred to as the ''Central California Coast Area,'' extends from 36°00′ N to a southern boundary at 34°30′ N. The nearshore boundary is defined by the 30-m isobath, and the seaward boundary is drawn along the 3,700-m isobath. This unit includes waters off of southern Monterey County, and San Luis Obispo and Santa Barbara Counties. Unit 17 covers 6,697 nmi² of marine habitat. This unit encompasses Morro Bay to Point Sal Biologically Important Area (BIA; see next section) and typically supports high density feeding aggregations of humpback whales from April to November (Calambokidis *et al.* 2015). Based on acoustic survey data collected during 2004–2009, large krill hotspots, ranging from 700 km² to 2,100 km², occur off Big Sur, San Luis Obispo, and Point Sal (Santora *et al.* 2011). Hotspots with persistent, heightened abundance of krill were also reported in this unit in association with bathymetric submarine canyons (Santora *et al.* 2018). This is the northernmost portion of humpback whale critical habitat that overlaps with the PMSR Study Area.

Unit 18, referred to as the ''Channel Islands Area,'' extends from a northern boundary at 34°30′ N to a boundary line that extends from Oxnard, CA seaward to the 3,700-m isobath, along which the offshore boundary is drawn. The 50-m isobath forms the shoreward boundary. This unit includes waters off of Santa Barbara and Ventura counties. This unit covers 9,799 nmi² of marine habitat. This unit encompasses the Santa Barbara Channel-San Miguel BIA, which supports high density feeding aggregations of humpback whales during March through September (Calambokidis *et al.* 2015). Based on acoustic survey data collected during 2004–2009, a krill hotspot of about 780 km² has been documented off Point Conception (Santora *et al.* 2011). Some additional krill hotspots have also been observed in this unit in association with bathymetric submarine canyons (Santora *et al.* 2018). Coastal waters managed by the Navy, as addressed within the Point Mugu Integrated Natural Resources Management Plan (INRMP) and SNI INRMP, are not included in the proposed designation as these areas were determined by NMFS to be ineligible for designation as critical habitat under section 4(a)(3)(B)(i) of the ESA (84 FR 54354; October 9, 2019).The Navy does not anticipate national security impacts resulting from critical habitat designation in the portion of Region/Unit 18 that overlaps with the PMSR Study Area.

Biologically Important Areas

Biologically Important Areas (BIAs) include areas of known importance for reproduction, feeding, or migration, or areas where small and resident populations are known to occur (Van Parijs, 2015). Unlike ESA critical habitat, these areas are not formally designated pursuant to any statute or law, but are a compilation of the best available science intended to inform impact and mitigation analyses. An interactive map of the BIAs may be found here: *https://cetsound.noaa.gov/biologically-important-area-map.*

BIAs off the West Coast of the continental United States with the potential to overlap portions of the PMSR Study Area include the following feeding and migration areas for blue whales, gray whales, and humpback whales and are described in further detail below (Calambokidis *et al.,* 2015).

Blue Whale Feeding BIAs

Three blue whale feeding BIAs overlap with the PMSR Study Area (see Figure 3.7–2 of the 2020 PMSR DEIS/OEIS). The Point Conception/Arguello to Point Sal Feeding Area and Santa Barbara Channel and San Miguel Feeding Area have large portions within the PMSR Study Area, 87 and 61 percent respectively. The San Nicolas Island Feeding Area is entirely within the PMSR Study Area (Calambokidis *et al.,* 2015a). Feeding by blue whales occurs from June through October in these BIAs (Calambokidis *et al.,* 2015a).

Gray Whale Migration BIAs

Four gray whale migration BIAs overlap with the PMSR Study Area (see Figure 3.7–3 of the 2020 PMSR DEIS/OEIS). The northward migration of the Eastern North Pacific stock of gray whales to the feeding grounds in Arctic waters, Alaska, the Pacific Northwest, and Northern California occurs in two phases: Northbound Phase A and Northbound Phase B (Calambokidis *et al.,* 2015). Northbound Phase A migration BIA consists mainly of adults and juveniles that lead the beginning of the north-bound migration from late January through July, peaking in April through July. Newly pregnant females go first to maximize feeding time, followed by adult females and males, and then juveniles (Jones and Swartz, 2009). The Northbound Phase B migration BIA consists primarily of cow-calf pairs that begin their northward migration later (March through July), as they remain on the reproductive grounds longer to allow calves to strengthen and rapidly increase in size before the northward migration (Jones and Swartz, 2009; Urban-Ramirez *et al.,* 2003). The Potential presence migration BIA (January through July; October through December) and the Southbound—All migration BIA (October through March) routes pass through the waters of the PMSR Study Area.

Humpback Whale Feeding BIAs

Two humpback whale feeding areas overlap with the PMSR Study Area (Calambokidis *et al.,* 2015) (see Figure 3.7–4 of the 2020 PMSR DEIS/OEIS). These BIAs include the Morro Bay to Point Sal feeding area (April through November) and the Santa Barbara Channel–San Miguel feeding area (March through September) (Calambokidis *et al.,* 2015). The majority of these BIAs overlap with the PMSR Study Area (approximately 75 percent).

National Marine Sanctuaries

Under Title III of the Marine Protection, Research, and Sanctuaries Act of 1972 (also known as the National Marine Sanctuaries Act (NMSA)), NOAA can establish as national marine sanctuaries (NMS), areas of the marine environment with special conservation, recreational, ecological, historical, cultural, archaeological, scientific, educational, or aesthetic qualities. Sanctuary regulations prohibit or regulate activities that could destroy, cause the loss of, or injure sanctuary resources pursuant to the regulations for that sanctuary and other applicable law (15 CFR part 922). NMSs are managed on a site-specific basis, and each sanctuary has site-specific regulations. Most, but not all, sanctuaries have site-specific regulatory exemptions from the prohibitions for certain military activities. Separately, section 304(d) of the NMSA requires Federal agencies to consult with the Office of National Marine Sanctuaries whenever their activities are likely to destroy, cause the loss of, or injure a sanctuary resource.

There are two NMSs managed by the Office of National Marine Sanctuaries within the PMSR Study Area: The Channel Islands NMS and a small portion of the Monterey Bay NMS. The

Channel Islands NMS is an ecosystem-based managed sanctuary consisting of an area of 1,109 nmi² around Anacapa Island, Santa Cruz Island, Santa Rosa Island, San Miguel Island, and Santa Barbara Island to the south. It encompasses sensitive habitats (*e.g.,* kelp forest habitat, deep benthic habitat) and includes various shipwrecks and maritime heritage artifacts. The Channel Islands NMS waters and its remote, isolated position at the confluence of two major ocean currents support significant biodiversity of marine mammals, fish, and invertebrates. At least 33 species of cetaceans have been reported in the Channel Islands NMFS region with common species, including: Long-beaked common dolphin, short-beaked common dolphin, Bottlenose dolphin, Pacific white-sided dolphin, Northern right whale dolphin, Risso's dolphin, California gray whale, Blue whale, and Humpback whale. The three species of pinnipeds that are commonly found throughout or in part of the Channel Islands NMS include: California sea lion, Northern elephant seal, and Pacific harbor seal. About 877 nmi², or 79 percent of the Channel Island NMS, occurs within the PMSR Study Area (see Chapter 6 of the 2020 PMSR DEIS/OEIS and Figure 6.1–1). The Monterey Bay NMS is an ecosystem-based managed sanctuary consisting of an area of 4,601 nmi² stretching from Marin to Cambria and extending an average of 30 miles from shore. The Monterey Bay NMS contains extensive kelp forests and one of North America's largest underwater canyons and closest-to-shore deep ocean environments. Its diverse marine ecosystem also includes rugged rocky shores, wave-swept sandy beaches and tranquil estuaries. These habitats support a variety of marine life, including 36 species of marine mammals, more than 180 species of seabirds and shorebirds, at least 525 species of fishes, and an abundance of invertebrates and algae. Of the 36 species of marine mammals, six are pinnipeds with California sea lions being the most common, and the remainder are twenty-six species of cetaceans. Only 19 nmi², or less than 1 percent of the Monterey Bay NMS, occurs within the PMSR Study Area (see Chapter 6 of the 2020 PMSR DEIS/OEIS and Figure 6.1–1).

Unusual Mortality Events (UMEs)

An UME is defined under Section 410(6) of the MMPA as a stranding that is unexpected; it involves a significant die-off of any marine mammal population, and demands immediate response. From 1991 to the present, there have been 14 formally recognized UMEs affecting marine mammals in California and involving species under NMFS' jurisdiction. Three UMEs with ongoing or recently closed investigations in the PMSR Study Area that inform our analysis are discussed below. The California sea lion UME in California was closed on May 6, 2020. The Guadalupe fur seal UME in California and the gray whale UME along the west coast of North America are active and involve ongoing investigations.

California Sea Lion UME

From January 2013 through September 2016, a greater than expected number of young malnourished California sea lions (*Zalophus californianus*) stranded along the coast of California. Sea lions stranding from an early age (6–8 months old) through two years of age (hereafter referred to as juveniles) were consistently underweight without other disease processes detected. Of the 8,122 stranded juveniles attributed to the UME, 93 percent stranded alive (n = 7,587, with 3,418 of these released after rehabilitation) and 7 percent (n = 531) stranded dead. Several factors are hypothesized to have impacted the ability of nursing females and young sea lions to acquire adequate nutrition for successful pup rearing and juvenile growth. In late 2012, decreased anchovy and sardine recruitment (CalCOFI data, July 2013) may have led to nutritionally stressed adult females. Biotoxins were present at various times throughout the UME, and while they were not detected in the stranded juvenile sea lions (whose stomachs were empty at the time of stranding), biotoxins may have impacted the adult females' ability to support their dependent pups by affecting their cognitive function (*e.g.,* navigation, behavior towards their offspring). Therefore, the role of biotoxins in this UME, via its possible impact on adult females' ability to support their pups, is unclear. The proposed primary cause of the UME was malnutrition of sea lion pups and yearlings due to ecological factors. These factors included shifts in distribution, abundance and/or quality of sea lion prey items around the Channel Island rookeries during critical sea lion life history events (nursing by adult females, and transitioning from milk to prey by young sea lions). These prey shifts were most likely driven by unusual oceanographic conditions at the time due to the event known as the ''Warm Water Blob'' and El Niño. This investigation closed on May 6, 2020. Please refer to: *https://www.fisheries.noaa.gov/national/marine-life-distress/2013-2016-california-sea-lion-unusual-mortality-event-california* for more information on this UME.

Guadalupe Fur Seal UME

Increased strandings of Guadalupe fur seals began along the entire coast of California in January 2015 and were eight times higher than the historical average (approximately 10 seals/yr). Strandings have continued since 2015 and remained well above average through 2020. Numbers by year are as follows: 2015 (98), 2016 (76), 2017 (62), 2018 (45), 2019 (116), 2020 (95 as of December 17, 2020). The total number of Guadalupe fur seals stranding in California from January 1, 2015, through December 17, 2020, in the UME is 492. Strandings of Guadalupe fur seals became elevated in the spring of 2019 in Washington and Oregon, and strandings for seals in these two states subsequently (starting from January 1, 2019) have been added to the UME. The current total number of strandings in Washington and Oregon is 133 seals, including 91 in 2019 and 42 in 2020 as of December 17, 2020. Strandings are seasonal and generally peak in April through June of each year. The Guadalupe fur seal strandings involved the stranding of mostly weaned pups and juveniles (1–2 years old), with both live and dead strandings occurring. Current studies of this UME find that the majority of stranded animals experienced primary malnutrition with secondary bacterial and parasitic infections. The California portion of this UME was occurring in the same area where the 2013–2016 California sea lion UME occurred. This investigation is ongoing. Please refer to: *https://www.fisheries.noaa.gov/national/marine-life-distress/2015-2020-guadalupe-fur-seal-unusual-mortality-event-california* for more information on this UME.

Gray Whale UME

Since January 1, 2019, elevated levels of gray whale strandings have occurred along the west coast of North America, from Mexico to Canada. As of December 17, 2020, there have been a total of 385 strandings along the coasts of the United States, Canada, and Mexico, with 201 of those strandings occurring along the U.S. coast. Of the strandings on the U.S. coast, 93 have occurred in Alaska, 47 in Washington, 9 in Oregon, and 52 in California. Partial necropsy examinations conducted on a subset of stranded whales have shown evidence of poor to thin body condition, killer whale predation, and human

interactions. As part of the UME investigation process, NOAA is assembling an independent team of scientists to coordinate with the Working Group on Marine Mammal UMEs to review the data collected, sample stranded whales, and determine the next steps for the investigation. Please refer to: *https://www.fisheries.noaa.gov/national/marine-life-distress/2019-2020-gray-whale-unusual-mortality-event-along-west-coast.*

Potential Effects of Specified Activities on Marine Mammals and Their Habitat

This section includes a summary of the ways that components of the specified activity may impact marine mammals and their habitat. The Estimated Take of Marine Mammals section later in this rule includes a quantitative analysis of the number of instances of take that could occur from these activities. The Preliminary Analysis and Negligible Impact Determination section considers the content of this section, the Estimated Take of Marine Mammals section, and the Proposed Mitigation Measures section to draw conclusions regarding the likely impacts of these activities on the reproductive success or survivorship of individuals and whether those impacts on individuals are likely to adversely affect the species through effects on annual rates of recruitment or survival.

The Navy has requested authorization for the take of marine mammals that may occur incidental to training and testing activities in the PMSR Study Area. The Navy analyzed potential impacts to marine mammals from explosive sources, target and missile launches from SNI, and from vessel use in its rulemaking/LOA application. NMFS carefully reviewed the information provided by the Navy along with independently reviewing applicable scientific research and literature and other information to evaluate the potential effects of the Navy's activities on marine mammals.

Other potential impacts to marine mammals from training and testing activities in the PMSR Study Area were analyzed in the 2020 PMSR DEIS/OEIS, in consultation with NMFS as a cooperating agency. In particular, the Navy determined that these activities were unlikely to result in any incidental take from vessel strike or in any serious injury or mortality from explosive detonations (discussed in this section below), and the Navy has not requested authorizations of any such incidental take. NMFS agrees with these determinations by the Navy. Accordingly, in this proposed rule NMFS' analysis focuses on the potential effects on marine mammals from the activity components that may cause the take of marine mammals: Exposure to explosive stressors and launches.

For the purpose of MMPA incidental take authorizations, NMFS' effects assessments serve four primary purposes: (1) To determine whether the specified activities would have a negligible impact on the affected species or stocks of marine mammals (based on whether it is likely that the activities would adversely affect the species or stocks through effects on annual rates of recruitment or survival); (2) to determine whether the specified activities would have an unmitigable adverse impact on the availability of the species or stocks for subsistence uses; (3) to prescribe the permissible methods of taking (*i.e.,* Level B harassment (behavioral disturbance, incurred directly or as a result of temporary threshold shift (TTS)), and Level A harassment (permanent threshold shift (PTS) and non-auditory injury)), including identification of the number and types of take that could occur by harassment, serious injury, or mortality, and to prescribe other means of effecting the least practicable adverse impact on the species or stocks and their habitat (*i.e.,* mitigation measures); and (4) to prescribe requirements pertaining to monitoring and reporting.

Marine mammals may be affected by Navy activities by sensory impairment (permanent and temporary threshold shifts and acoustic masking), physiological responses (particular stress responses), direct behavioral disturbance, or habitat effects. The Estimated Take of Marine Mammals section discusses how the potential effects on marine mammals from the impulsive acoustic sources considered in this rule relate to the MMPA definitions of Level A harassment and Level B harassment, and quantifies those effects that rise to the level of a take. The Preliminary Analysis and Negligible Impact Determination section assesses whether the proposed authorized take would have a negligible impact on the affected species and stocks.

Sections 6, 7, and 9 of the Navy's application include summaries of the ways that components of the specified activity may impact marine mammals and their habitat, including specific discussion of potential effects to marine mammals from noise and other stressors produced through the use explosives detonating at or near the surface and noise from launch events on SNI. We have reviewed the Navy's discussion of potential effects for accuracy and completeness in its application and refer to that information rather than repeating it in full here. Below we include a summary of the potential effects to marine mammals.

Additionally, NMFS has included a comprehensive discussion of the potential effects of similar activities on marine mammals, including specifically from Navy testing and training exercises that use explosives, in other **Federal Register** notices. For additional detail, we refer the reader to these notices; please see, 85 FR 72312 (November 9, 2020) (Navy testing and training, including explosives); 84 FR 28462 (June 12, 2019) (Navy IHA on target and missile launches from SNI); and 79 FR 32678 (June 6, 2014) (Navy previous rule on target and missile launches from SNI), or view documents available online at *www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-military-readiness-activities.*

Below we provide a brief technical background on sound, on the characteristics of certain sound types, and on metrics used in this proposal, as well as a brief overview of the potential effects to marine mammals associated with the Navy's proposed activities. The proposed training and testing exercises have the potential to cause take of marine mammals by exposing them to impulsive noise and pressure waves generated by explosive detonation at or near the surface of the water as well as by impulsive noise target and missile launches from SNI. Exposure to noise or pressure resulting from these detonations and launches could result in non-lethal injury (Level A harassment) or disturbance (Level B harassment). The potential effects of impulsive sound and pressure from the proposed training and testing activities may include one or more of the following: Tolerance, masking, disturbance, hearing threshold shift, and stress responses. In addition, NMFS also considered the potential for harassment from vessels and serious injury and mortality from explosive detonations.

Description of Sound Sources

This section contains a brief technical background on sound, on the characteristics of certain sound types, and on metrics used in this proposal inasmuch as the information is relevant to the specified activity and to a discussion of the potential effects of the specified activity on marine mammals found later in this document. For general information on sound and its interaction with the marine environment, please see, *e.g.,* Au and

Hastings (2008); Richardson *et al.* (1995); Urick (1983).

Sound travels in waves, the basic components of which are frequency, wavelength, velocity, and amplitude. Frequency is the number of pressure waves that pass by a reference point per unit of time and is measured in hertz or cycles per second. Wavelength is the distance between two peaks or corresponding points of a sound wave (length of one cycle). Higher frequency sounds have shorter wavelengths than lower frequency sounds, and typically attenuate (decrease) more rapidly, except in certain cases in shallower water. Amplitude is the height of the sound pressure wave or the ''loudness'' of a sound and is typically described using the relative unit of the decibel (dB). A sound pressure level (SPL) in dB is described as the ratio between a measured pressure and a reference pressure (for underwater sound, this is 1 microPascal (μPa)), and is a logarithmic unit that accounts for large variations in amplitude. Therefore, a relatively small change in dB corresponds to large changes in sound pressure. The source level (SL) represents the SPL referenced at a distance of 1 m from the source (referenced to 1 μPa), while the received level is the SPL at the listener's position (referenced to 1 μPa).

Root mean square (rms) is the quadratic mean sound pressure over the duration of an impulse. Root mean square is calculated by squaring all of the sound amplitudes, averaging the squares, and then taking the square root of the average (Urick, 1983). Root mean square accounts for both positive and negative values; squaring the pressures makes all values positive so that they may be accounted for in the summation of pressure levels (Hastings and Popper, 2005). This measurement is often used in the context of discussing behavioral effects, in part because behavioral effects, which often result from auditory cues, may be better expressed through averaged units than by peak pressures.

Sound exposure level (SEL; represented as dB re 1 μPa^2-s) represents the total energy in a stated frequency band over a stated time interval or event and considers both intensity and duration of exposure. The per-pulse SEL is calculated over the time window containing the entire pulse (*i.e.,* 100 percent of the acoustic energy). SEL is a cumulative metric; it can be accumulated over a single pulse, or calculated over periods containing multiple pulses. Cumulative SEL represents the total energy accumulated by a receiver over a defined time window or during an event. Peak sound pressure (also referred to as zero-to-peak sound pressure or 0-pk) is the maximum instantaneous sound pressure measurable in the water at a specified distance from the source and is represented in the same units as the rms sound pressure. When underwater objects vibrate or activity occurs, sound-pressure waves are created. These waves alternately compress and decompress the water as the sound wave travels. Underwater sound waves radiate in a manner similar to ripples on the surface of a pond and may be either directed in a beam or beams or may radiate in all directions (omnidirectional sources), as is the case for sound produced by the pile driving activity considered here. The compressions and decompressions associated with sound waves are detected as changes in pressure by aquatic life and man-made sound receptors such as hydrophones.

Even in the absence of sound from the specified activity, the underwater environment is typically loud due to ambient sound, which is defined as environmental background sound levels lacking a single source or point (Richardson *et al.,* 1995). The sound level of a region is defined by the total acoustical energy being generated by known and unknown sources. These sources may include physical (*e.g.,* wind and waves, earthquakes, ice, atmospheric sound), biological (*e.g.,* sounds produced by marine mammals, fish, and invertebrates), and anthropogenic (*e.g.,* vessels, dredging, construction) sound. A number of sources contribute to ambient sound, including wind and waves, which are a main source of naturally occurring ambient sound for frequencies between 200 Hz and 50 kHz (Mitson, 1995). In general, ambient sound levels tend to increase with increasing wind speed and wave height. Precipitation can become an important component of total sound at frequencies above 500 Hz, and possibly down to 100 Hz during quiet times. Marine mammals can contribute significantly to ambient sound levels, as can some fish and snapping shrimp. The frequency band for biological contributions is from approximately 12 Hz to over 100 kHz. Sources of ambient sound related to human activity include transportation (surface vessels), dredging and construction, oil and gas drilling and production, geophysical surveys, sonar, and explosions. Vessel noise typically dominates the total ambient sound for frequencies between 20 and 300 Hz. In general, the frequencies of anthropogenic sounds are below 1 kHz and, if higher frequency sound levels are created, they attenuate rapidly. The sum of the various natural and anthropogenic sound sources that comprise ambient sound at any given location and time depends not only on the source levels (as determined by current weather conditions and levels of biological and human activity) but also on the ability of sound to propagate through the environment. In turn, sound propagation is dependent on the spatially and temporally varying properties of the water column and sea floor, and is frequency-dependent. As a result of the dependence on a large number of varying factors, ambient sound levels can be expected to vary widely over both coarse and fine spatial and temporal scales. Sound levels at a given frequency and location can vary by 10–20 decibels (dB) from day to day (Richardson *et al.,* 1995). The result is that, depending on the source type and its intensity, sound from the specified activity may be a negligible addition to the local environment or could form a distinctive signal that may affect marine mammals. Details of source types are described in the following text.

Sounds are often considered to fall into one of two general types: Pulsed and non-pulsed (defined in the following). The distinction between these two sound types is important because they have differing potential to cause physical effects, particularly with regard to hearing (*e.g.,* Ward, 1997 in Southall *et al.,* 2007). Please see Southall *et al.* (2007) and NMFS' *Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing (Version 2.0) Underwater Thresholds for Onset of Permanent and Temporary Threshold Shift* (Acoustic Technical Guidance) (NMFS, 2018) for an in-depth discussion of these concepts. The distinction between these two sound types is not always obvious, as certain signals share properties of both pulsed and non-pulsed sounds. A signal near a source could be categorized as a pulse, but due to propagation effects as it moves farther from the source, the signal duration becomes longer (*e.g.,* Greene and Richardson, 1988).

Pulsed sound sources (*e.g.,* airguns, explosions, gunshots, sonic booms, impact pile driving) produce signals that are brief (typically considered to be less than one second), broadband, atonal transients (ANSI, 1986, 2005; Harris, 1998; NIOSH, 1998; ISO, 2003) and occur either as isolated events or repeated in some succession. Pulsed sounds are all characterized by a relatively rapid rise from ambient pressure to a maximal pressure value followed by a rapid decay period that may include a period of diminishing,

oscillating maximal and minimal pressures, and generally have an increased capacity to induce physical injury as compared with sounds that lack these features.

Non-pulsed sounds can be tonal, narrowband, or broadband, brief or prolonged, and may be either continuous or intermittent (ANSI, 1995; NIOSH, 1998). Some of these non-pulsed sounds can be transient signals of short duration but without the essential properties of pulses (*e.g.,* rapid rise time). Examples of non-pulsed sounds include those produced by vessels, aircraft, machinery operations such as drilling or dredging, vibratory pile driving, and active sonar systems. The duration of such sounds, as received at a distance, can be greatly extended in a highly reverberant environment.

Serious Injury or Mortality From Explosive Detonations

Serious injury or mortality to marine mammals from explosive detonations would consist of primary blast injury, which refers to those injuries that result from the compression of a body exposed to a blast wave and is usually observed as barotrauma of gas-containing structures (*e.g.,* lung and gut) and structural damage to the auditory system (Greaves *et al.,* 1943; Office of the Surgeon General, 1991; Richmond *et al.,* 1973). The near instantaneous high magnitude pressure change near an explosion can injure an animal where tissue material properties significantly differ from the surrounding environment, such as around air-filled cavities in the lungs or gastrointestinal (GI) tract. The gas-containing organs (lungs and GI tract) are most vulnerable to primary blast injury. Severe injuries to these organs are presumed to result in mortality (*e.g.,* severe lung damage may introduce air into the cardiopulmonary vascular system, resulting in lethal air emboli). Large pressure changes at tissue-air interfaces in the lungs and GI tract may cause tissue rupture, resulting in a range of injuries depending on degree of exposure. Recoverable injuries would include slight lung injury, such as capillary interstitial bleeding, and contusions to the GI tract. More severe injuries, such as tissue lacerations, major hemorrhage, organ rupture, or air in the chest cavity (pneumothorax), would significantly reduce fitness and likely cause death in the wild. Rupture of the lung may also introduce air into the vascular system, producing air emboli that can cause a stroke or heart attack by restricting oxygen delivery to critical organs. Susceptibility would increase with depth, until normal lung collapse (due to increasing hydrostatic pressure) and increasing ambient pressures again reduce susceptibility.

The Navy performed a quantitative analysis (refer to the Navy's Acoustic Effects Model section) to estimate the probability that marine mammals could be exposed to the sound and energy from explosions during Navy testing and training activities and the effects of those exposures. The effects of underwater explosions on marine mammals depend on a variety of factors including animal size and depth; charge size and depth; depth of the water column; and distance between the animal and the charge. In general, an animal would be less susceptible to injury near the water surface because the pressure wave reflected from the water surface would interfere with the direct path pressure wave, reducing positive pressure exposure. There are no explosives detonated underwater for the proposed activities, and those that detonate at or near the surface of the water are unlikely to transfer energy underwater sufficient to result in non-auditory injury (GI injury or lung injury) or mortality. NMFS agrees with the Navy's analysis that no mortality or serious injury from tissue damage in the form of GI injury or lung injury is anticipated to result from the proposed activities. The Navy did not request and NMFS does not propose it for authorization or discuss further. For additional details on the criteria for estimating non-auditory physiological impacts on marine mammals due to naval underwater explosions, we refer the reader to the report, *Criteria and Thresholds for U.S. Navy Acoustic and Explosive Effects Analysis (Phase III)* (U.S. Department of the Navy, 2017e).

Hearing Loss—Threshold Shift

Marine mammals exposed to high-intensity sound, or to lower-intensity sound for prolonged periods, can experience hearing threshold shift, which is the loss of hearing sensitivity at certain frequency ranges after cessation of sound (Finneran, 2015). Threshold shift can be permanent (PTS), in which case the loss of hearing sensitivity is not fully recoverable, or temporary (TTS), in which case the animal's hearing threshold would recover over time (Southall *et al.,* 2007). Irreparable damage to the inner or outer cochlear hair cells may cause PTS; however, other mechanisms are also involved, such as exceeding the elastic limits of certain tissues and membranes in the middle and inner ears and resultant changes in the chemical composition of the inner ear fluids (Southall *et al.,* 2007). PTS is considered an injury and Level A harassment while TTS is considered to be Level B harassment and *not* considered an injury.

Hearing loss, or threshold shift (TS), is typically quantified in terms of the amount (in decibels [dB]) that hearing thresholds at one or more specified frequencies are elevated, compared to their pre-exposure values, at some specific time after the noise exposure. The amount of TS measured usually decreases with increasing recovery time—the amount of time that has elapsed since a noise exposure. If the TS eventually returns to zero (*i.e.,* the hearing threshold returns to the pre-exposure value), the threshold shift is called a TTS. If the TS does not completely recover (the threshold remains elevated compared to the pre-exposure value), the remaining TS is a PTS.

Hearing loss has only been studied in a few species of marine mammals, although hearing studies with terrestrial mammals are also informative. There are no direct measurements of hearing loss in marine mammals due to exposure to explosive sources. The sound resulting from an explosive detonation is considered an impulsive sound and shares important qualities (*i.e.,* short duration and fast rise time) with other impulsive sounds such as those produced by air guns. General research findings regarding TTS and PTS in marine mammals, as well as findings specific to exposure to other impulsive sound sources, are discussed in Section 6.4.1.2, (Loss of Hearing Sensitivity and Auditory Injury) of the Navy's application.

Marine mammal TTS data from impulsive sources are limited to two studies with measured TTS of 6 dB or more: Finneran *et al.* (2002) reported behaviorally measured TTSs of 6 and 7 dB in a beluga exposed to single impulses from a seismic water gun, and Lucke *et al.* (2009) reported Audio-evoked Potential measured TTS of 7–20 dB in a harbor porpoise exposed to single impulses from a seismic air gun.

In addition to these data, Kastelein *et al.* (2015a) reported behaviorally measured mean TTS of 4 dB at 8 kHz and 2 dB at 4 kHz after a harbor porpoise was exposed to a series of impulsive sounds produced by broadcasting underwater recordings of impact pile driving strikes through underwater sound projectors. The cumulative SEL was approximately 180 decibels referenced to 1 micropascal squared seconds (dB re 1 μPa^2s). The pressure waveforms for the simulated pile strikes exhibited significant

''ringing'' not present in the original recordings, and most of the energy in the broadcasts was between 500 and 800 Hz. As a result, some questions exist regarding whether the fatiguing signals were representative of underwater pressure signatures from impact pile driving.

Several impulsive noise exposure studies have also been conducted without behaviorally measurable TTS. Specifically, Finneran *et al.* (2000) exposed dolphins and belugas to single impulses from an ''explosion simulator,'' and Finneran *et al.* (2015) exposed three dolphins to sequences of 10 impulses from a seismic air gun (maximum cumulative SEL = 193–195 dB re 1 μPa²s, peak SPL = 196–210 dB re 1 μPa) without measurable TTS. Finneran *et al.* (2003) exposed two sea lions to single impulses from an arc-gap transducer with no measurable TTS (maximum unweighted SEL = 163 dB re 1 μPa²s, peak SPL = 183 dB re 1 μPa).

Numerous studies have directly examined noise-induced hearing loss in marine mammals from non-impulsive sources (see Finneran, 2015). In these studies, hearing thresholds were measured in marine mammals before and after exposure to intense sounds. The difference between the pre-exposure and post-exposure thresholds was then used to determine the amount of TTS at various post-exposure times. The major findings from these studies, which include the following, highlight general concepts that are thought to be applicable across all types of sounds:

- The amount of TTS varies with the hearing test frequency. As the exposure SPL increases, the frequency at which the maximum TTS occurs also increases (Kastelein et al., 2014b). For high-level exposures, the maximum TTS typically occurs one-half to one octave above the exposure frequency (Finneran *et al.,* 2007; Mooney *et al.,* 2009a; Nachtigall *et al.,* 2004; Popov *et al.,* 2011; Popov *et al.,* 2013; Schlundt *et al.,* 2000). The overall spread of TTS from tonal exposures can therefore extend over a large frequency range (*i.e.,* narrowband exposures can produce broadband [greater than one octave] TTS).
- The amount of TTS increases with exposure SPL and duration and is correlated with sound exposure level (SEL), especially if the range of exposure durations is relatively small (Kastak *et al.,* 2007; Kastelein *et al.,* 2014b; Popov *et al.,* 2014). As the exposure duration increases, however, the relationship between TTS and SEL begins to break down. Specifically, duration has a more significant effect on TTS than would be predicted on the basis of SEL alone (Finneran *et al.,* 2010a, 2010b; Kastak *et al.,* 2005; Mooney *et al.,* 2009a). This means if two exposures have the same SEL but different durations, the exposure with the longer duration (thus lower SPL) will tend to produce more TTS than the exposure with the higher SPL and shorter duration. In most acoustic impact assessments, the scenarios of interest involve shorter duration exposures than the marine mammal experimental data from which impact thresholds are derived; therefore, use of SEL tends to overestimate the amount of TTS. Despite this, SEL continues to be used in many situations because it is relatively simple, more accurate than SPL alone, and lends itself easily to scenarios involving multiple exposures with different SPL.
- The amount of TTS depends on the exposure frequency. Sounds at low frequencies, well below the region of best sensitivity, are less hazardous than those at higher frequencies, near the region of best sensitivity (Finneran and Schlundt, 2013). The onset of TTS—defined as the exposure level necessary to produce 6 dB of TTS (*i.e.,* clearly above the typical variation in threshold measurements)—also varies with exposure frequency. At low frequencies onset-TTS exposure levels are higher compared to those in the region of best sensitivity.
- TTS can accumulate across multiple exposures, but the resulting TTS will be less than the TTS from a single, continuous exposure with the same SEL (Finneran *et al.,* 2010a; Kastelein *et al.,* 2014a; Kastelein *et al.,* 2015b; Mooney *et al.,* 2009b). This means that TTS predictions based on the total, cumulative SEL will overestimate the amount of TTS from intermittent exposures such as sonars and impulsive sources.
- The amount of observed TTS tends to decrease with increasing time following the exposure; however, the relationship is not monotonic (*i.e.,* increasing exposure does not always increase TTS). The time required for complete recovery of hearing depends on the magnitude of the initial shift; for relatively small shifts recovery may be complete in a few minutes, while large shifts (*e.g.,* ~40 dB) may require several days for recovery. Under many circumstances TTS recovers linearly with the logarithm of time (Finneran *et al.,* 2010a, 2010b; Finneran and Schlundt, 2013; Kastelein *et al.,* 2012a; Kastelein *et al.,* 2012b; Kastelein *et al.,* 2013a; Kastelein *et al.,* 2014a, 2014b; Kastelein *et al.,* 2014c; Popov *et al.,* 2011; Popov *et al.,* 2013; Popov *et al.,* 2014). This means that for each doubling of recovery time, the amount of TTS will decrease by the same amount (*e.g.,* 6 dB recovery per doubling of time).

The proposed activities include both TTS and a limited amount of PTS on some marine mammals.

Hearing Loss from SNI Target and Missile Launches—Missile launches are characterized by sudden onset of sound, moderate to high peak sound levels (depending on the type of missile and distance), and short sound duration. Although it is possible that some pinnipeds may incur TTS during launches from SNI, hearing impairment has not been measured for pinniped species exposed to launch sounds. Auditory brainstem response *(i.e.,* hearing assessment using measurements of electrical responses of the brain) was used to demonstrate that harbor seals did not exhibit loss in hearing sensitivity following launches of large rockets at Vandenberg Air Force Base (VAFB) (Thorson *et al.,* 1999; Thorson *et al.,* 1998). However, the hearing tests did not begin until at least 45 minutes after the launch; therefore, harbor seals may have incurred TTS which was undetectable by the time testing was begun. There was no sign of PTS in any of the harbor seals tested (Thorson *et al.,* 1999; Thorson *et al.,* 1998). Since 2001, no launch events at SNI have exposed pinnipeds to noise levels at or exceeding those where PTS could be incurred.

Based on measurements of received sound levels during previous launches at SNI (Burke 2017; Holst *et al.,* 2010; Holst *et al.,* 2005a; Holst *et al.,* 2008; Holst *et al.,* 2011; Ugoretz 2016; Ugoretz and Greene Jr. 2012), the Navy expects that there is a very limited potential of TTS for a few of the pinnipeds present, particularly for phocids. Available evidence from launch monitoring at SNI in 2001–2017 suggests that only a small number of launch events produced sound levels that could elicit TTS for some pinnipeds (Burke 2017; Holst *et al.,* 2008; Holst *et al.,* 2011; Ugoretz 2016; Ugoretz and Greene Jr. 2012). In general, if any TTS were to occur to pinnipeds, it is expected to be mild and reversible. It is possible that some launch sounds as measured close to the launchers may exceed the permanent threshold shift (PTS) criteria, but it is not expected that any pinnipeds would be close enough to the launchers to be exposed to sounds strong enough to cause PTS. Due to the expected sound levels of the activities proposed and the distance of the activity from marine mammal habitat, the effects of sounds from the proposed activities are unlikely to result in PTS.

Physiological Stress

There is growing interest in monitoring and assessing the impacts of stress responses to sound in marine animals. Classic stress responses begin when an animal's central nervous system perceives a potential threat to its homeostasis. That perception triggers stress responses regardless of whether a stimulus actually threatens the animal; the mere perception of a threat is sufficient to trigger a stress response (Moberg, 2000; Sapolsky *et al.,* 2005; Seyle, 1950). Once an animal's central nervous system perceives a threat, it mounts a biological response or defense that consists of a combination of the four general biological defense responses: behavioral responses, autonomic nervous system responses, neuroendocrine responses, or immune responses.

According to Moberg (2000), in the case of many stressors, an animal's first and sometimes most economical (in terms of biotic costs) response is behavioral avoidance of the potential stressor or avoidance of continued exposure to a stressor. An animal's second line of defense to stressors involves the sympathetic part of the autonomic nervous system and the classical ''fight or flight'' response which includes the cardiovascular system, the gastrointestinal system, the exocrine glands, and the adrenal medulla to produce changes in heart rate, blood pressure, and gastrointestinal activity that humans commonly associate with ''stress.'' These responses have a relatively short duration and may or may not have significant long-term effect on an animal's welfare.

An animal's third line of defense to stressors involves its neuroendocrine systems or sympathetic nervous systems; the system that has received the most study has been the hypothalmus-pituitary-adrenal system (also known as the HPA axis in mammals or the hypothalamus-pituitary-interrenal axis in fish and some reptiles). Unlike stress responses associated with the autonomic nervous system, virtually all neuro-endocrine functions that are affected by stress—including immune competence, reproduction, metabolism, and behavior—are regulated by pituitary hormones. Stress-induced changes in the secretion of pituitary hormones have been implicated in failed reproduction (Moberg, 1987; Rivier and Rivest, 1991), altered metabolism (Elasser *et al.,* 2000), reduced immune competence (Blecha, 2000), and behavioral disturbance (Moberg, 1987; Blecha, 2000). Increases in the circulation of glucocorticosteroids (cortisol, corticosterone, and aldosterone in marine mammals; see Romano *et al.,* 2004) have been equated with stress for many years.

Because there are many unknowns regarding the occurrence of acoustically induced stress responses in marine mammals, it is assumed that any physiological response (*e.g.,* hearing loss or injury) or significant behavioral response is also associated with a stress response.

Auditory Masking

Sound can disrupt behavior through masking, or interfering with, an animal's ability to detect, recognize, or discriminate between acoustic signals of interest (*e.g.,* those used for intraspecific communication and social interactions, prey detection, predator avoidance, or navigation) (Richardson *et al.,* 1995; Erbe and Farmer, 2000; Tyack, 2000; Erbe *et al.,* 2016). Masking occurs when the receipt of a sound is interfered with by another coincident sound at similar frequencies and at similar or higher intensity, and may occur whether the sound is natural (*e.g.,* snapping shrimp, wind, waves, precipitation) or anthropogenic (*e.g.,* shipping, sonar, seismic exploration) in origin. As described in detail in the 2020 PMSR DSEIS/OEIS, the ability of a noise source to mask biologically important sounds depends on the characteristics of both the noise source and the signal of interest (*e.g.,* signal-to-noise ratio, temporal variability, direction), in relation to each other and to an animal's hearing abilities (*e.g.,* sensitivity, frequency range, critical ratios, frequency discrimination, directional discrimination, age, or TTS hearing loss), and existing ambient noise and propagation conditions. Masking these acoustic signals can disturb the behavior of individual animals, groups of animals, or entire populations. Masking can lead to behavioral changes including vocal changes (*e.g.,* Lombard effect, increasing amplitude, or changing frequency), cessation of foraging, and leaving an area, to both signalers and receivers, in an attempt to compensate for noise levels (Erbe *et al.,* 2016). Masking only occurs in the presence of the masking noise and does not persist after the cessation of the noise. Masking may lead to a change in vocalizations or a change in behavior (*e.g.,* cessation of foraging, leaving an area). There are no direct observations of masking in marine mammals due to exposure to sound from explosive detonations or launches and nor would they be predicted given the shorter duration of these sounds.

Behavioral Disturbance

Behavioral responses to sound are highly variable and context-specific. Many different variables can influence an animal's perception of and response to (nature and magnitude) an acoustic event. An animal's prior experience with a sound or sound source affects whether it is less likely (habituation) or more likely (sensitization) to respond to certain sounds in the future (animals can also be innately predisposed to respond to certain sounds in certain ways) (Southall *et al.,* 2007). Related to the sound itself, the perceived nearness of the sound, bearing of the sound (approaching vs. retreating), the similarity of a sound to biologically relevant sounds in the animal's environment (*i.e.,* calls of predators, prey, or conspecifics), and familiarity of the sound may affect the way an animal responds to the sound (Southall *et al.,* 2007, DeRuiter *et al.,* 2013). Individuals (of different age, gender, reproductive status, *etc.*) among most populations will have variable hearing capabilities, and differing behavioral sensitivities to sounds that will be affected by prior conditioning, experience, and current activities of those individuals. Often, specific acoustic features of the sound and contextual variables (*i.e.,* proximity, duration, or recurrence of the sound or the current behavior that the marine mammal is engaged in or its prior experience), as well as entirely separate factors such as the physical presence of a nearby vessel, may be more relevant to the animal's response than the received level alone.

Controlled experiments with captive marine mammals have shown pronounced behavioral reactions, including avoidance of loud underwater sound sources (Ridgway *et al.,* 1997; Finneran *et al.,* 2003). These may be of limited relevance to the proposed activities given that airborne sound, and not underwater sound, may result in harassment of marine mammals as a result of the proposed activities; however we present this information as background on the potential impacts of sound on marine mammals. Observed responses of wild marine mammals to loud pulsed sound sources (typically seismic guns or acoustic harassment devices) have been varied but often consist of avoidance behavior or other behavioral changes suggesting discomfort (Morton and Symonds, 2002; Thorson and Reyff, 2006; see also Gordon *et al.,* 2004; Wartzok *et al.,* 2003; Nowacek *et al.,* 2007).

The onset of noise can result in temporary, short-term changes in an animal's typical behavior and/or

avoidance of the affected area. These behavioral changes may include: reduced/increased vocal activities; changing/cessation of certain behavioral activities (such as socializing or feeding); visible startle response or aggressive behavior; avoidance of areas where sound sources are located; and/or flight responses (Richardson *et al.,* 1995).

The biological significance of many of these behavioral disturbances is difficult to predict, especially if the detected disturbances appear minor. However, the consequences of behavioral modification could potentially be biologically significant if the change affects growth, survival, or reproduction. The onset of behavioral disturbance from anthropogenic sound depends on both external factors (characteristics of sound sources and their paths) and the specific characteristics of the receiving animals (hearing, motivation, experience, demography) and is difficult to predict (Southall *et al.,* 2007).

Ellison *et al.* (2012) outlined an approach to assessing the effects of sound on marine mammals that incorporates contextual-based factors. The authors recommend considering not just the received level of sound, but also the activity the animal is engaged in at the time the sound is received, the nature and novelty of the sound (*i.e.,* is this a new sound from the animal's perspective), and the distance between the sound source and the animal. They submit that this ''exposure context,'' as described, greatly influences the type of behavioral response exhibited by the animal. Forney *et al.* (2017) also point out that an apparent lack of response (*e.g.,* no displacement or avoidance of a sound source) may not necessarily mean there is no cost to the individual or population, as some resources or habitats may be of such high value that animals may choose to stay, even when experiencing stress or hearing loss. Forney *et al.* (2017) recommend considering both the costs of remaining in an area of noise exposure such as TTS, PTS, or masking, which could lead to an increased risk of predation or other threats or a decreased capability to forage, and the costs of displacement, including potential increased risk of vessel strike, increased risks of predation or competition for resources, or decreased habitat suitable for foraging, resting, or socializing. This sort of contextual information is challenging to predict with accuracy for ongoing activities that occur over large spatial and temporal expanses. However, distance is one contextual factor for which data exist to quantitatively inform a take estimate, and the method for predicting Level B harassment in this proposed rule does consider distance to the source. Other factors are often considered qualitatively in the analysis of the likely consequences of sound exposure, where supporting information is available.

Exposure of marine mammals to sound sources can result in, but is not limited to, no response or any of the following observable responses: Increased alertness; orientation or attraction to a sound source; vocal modifications; cessation of feeding; cessation of social interaction; alteration of movement or diving behavior; habitat abandonment (temporary or permanent); and, in severe cases, panic, flight, stampede, or stranding, potentially resulting in death (Southall *et al.,* 2007). A review of marine mammal responses to anthropogenic sound was first conducted by Richardson (1995). More recent reviews (Nowacek *et al.,* 2007; DeRuiter *et al.,* 2012 and 2013; Ellison *et al.,* 2012; Gomez *et al.,* 2016) address studies conducted since 1995 and focused on observations where the received sound level of the exposed marine mammal(s) was known or could be estimated. Gomez *et al.* (2016) conducted a review of the literature considering the contextual information of exposure in addition to received level and found that higher received levels were not always associated with more severe behavioral responses and vice versa. Southall *et al.* (2016) states that results demonstrate that some individuals of different species display clear yet varied responses, some of which have negative implications, while others appear to tolerate high levels, and that responses may not be fully predictable with simple acoustic exposure metrics (*e.g.,* received sound level). Rather, the authors state that differences among species and individuals along with contextual aspects of exposure (*e.g.,* behavioral state) appear to affect response probability.

During an activity with a series of explosions (not concurrent multiple explosions shown in a burst), an animal is expected to exhibit a startle reaction to the sound of the first detonation followed by another behavioral response after multiple detonations. At close ranges and high sound levels, avoidance of the area around the explosions is the assumed behavioral response in most cases. In certain circumstances, exposure to loud sounds can interrupt feeding behaviors and potentially decrease foraging success, interfere with communication or migration, or disrupt important reproductive or young-rearing behaviors, among other effects.

Behavioral Disturbance from SNI Target and Missile Launches—Pinnipeds may be exposed to airborne sounds that have the potential to result in behavioral harassment, depending on an animal's distance from the sound and the type of missile being launched. Sound could cause hauled out pinnipeds to exhibit changes in their normal behavior, such as temporarily abandoning their habitat.

Responses of pinnipeds on beaches exposed to acoustic disturbance arising from launches are highly variable. Harbor seals can be more reactive when hauled out compared to other species, such as northern elephant seals. Northern elephant seals generally exhibit no reaction at all, except perhaps a heads-up response or some stirring. If northern elephant seals do react, it may occur if California sea lions are in the same area mingled with the northern elephant seals and the sea lions react strongly. Responsiveness also varies with time of year and age class, with juvenile pinnipeds being more likely to react by leaving the haulout site. The probability and type of behavioral response will also depend on the season, the group composition of the pinnipeds, and the type of activity in which they are engaged. For example, in some cases, harbor seals at SNI appear to be more responsive during the pupping/breeding season (Holst *et al.* 2005a; Holst *et al.* 2008), while in others, mothers and pups seem to react less to launches than lone individuals (Ugoretz and Greene Jr. 2012), and California sea lions seem to be consistently less responsive during the pupping season (Holst *et al.* 2010; Holst *et al.* 2005a; Holst *et al.* 2008; Holst *et al.* 2011; Holst *et al.* 2005b; Ugoretz and Greene Jr. 2012). Though pup abandonment could theoretically result from these reactions, site-specific monitoring data indicate that pup abandonment is not likely to occur as a result of the specified activity because it has not been previously observed. While the reactions are variable, and can involve abrupt movements by some individuals, biological impacts of these responses appear to be limited. The responses are not expected to result in significant injury or mortality, or long-term negative consequences to individuals or pinniped populations on SNI.

Habituation can occur when an animal's response to a stimulus wanes with repeated exposure, usually in the absence of unpleasant associated events (Wartzok *et al.,* 2003). Animals are most likely to habituate to sounds that are

predictable and unvarying. The opposite process is sensitization, when an unpleasant experience leads to subsequent responses, often in the form of avoidance, at a lower level of exposure. Behavioral state may affect the type of response as well. For example, animals that are resting may show greater behavioral change in response to disturbing sound levels than animals that are highly motivated to remain in an area for feeding (Richardson *et al.,* 1995; NRC, 2003; Wartzok *et al.,* 2003).

It is possible that launch-induced flushing or stampedes could have adverse impacts on individual pinnipeds on the west end of SNI. Bowles and Stewart (1980) reported that harbor seals on San Miguel Island reacted to low-altitude jet overflights with alert postures and often with rapid movement across the haulout sites, especially when aircraft were visible. However, on SNI during missile launches in 2001–2017, there was no evidence of launch noise-related injuries or deaths (Burke 2017; Holst *et al.* 2010; Holst *et al.* 2005a; Holst *et al.* 2008; Holst *et al.* 2011; Ugoretz 2016; Ugoretz and Greene Jr. 2012). On several occasions, harbor seals and California sea lion adults moved near and sometimes over older pups (*i.e.,* greater than four months old) as the animals moved in response to the launch noises, but the pups were not injured (Holst *et al.,* 2010; Holst *et al.,* 2005a; Holst *et al.,* 2008; Holst *et al.,* 2011; Ugoretz and Greene Jr. 2012).

Vessel Strike

Vessel strikes from commercial, recreational, and military vessels are known to affect large whales and have resulted in serious injury and occasional fatalities to cetaceans (Berman-Kowalewski *et al.,* 2010; Calambokidis, 2012; Douglas *et al.,* 2008; Laggner 2009; Lammers *et al.,* 2003). Records of collisions date back to the early 17th century, and the worldwide number of collisions appears to have increased steadily during recent decades (Laist *et al.,* 2001; Ritter 2012).

Numerous studies of interactions between surface vessels and marine mammals have demonstrated that free-ranging marine mammals often, but not always (*e.g.,* McKenna *et al.,* 2015), engage in avoidance behavior when surface vessels move toward them. It is not clear whether these responses are caused by the physical presence of a surface vessel, the underwater noise generated by the vessel, or an interaction between the two (Amaral and Carlson, 2005; Au and Green, 2000; Bain *et al.,* 2006; Bauer 1986; Bejder *et al.,* 1999; Bejder and Lusseau, 2008; Bejder *et al.,* 2009; Bryant *et al.,* 1984; Corkeron, 1995; Erbe, 2002; Félix, 2001; Goodwin and Cotton, 2004; Lemon *et al.,* 2006; Lusseau, 2003; Lusseau, 2006; Magalhaes *et al.,* 2002; Nowacek *et al.,* 2001; Richter *et al.,* 2003; Scheidat *et al.,* 2004; Simmonds, 2005; Watkins, 1986; Williams *et al.,* 2002; Wursig *et al.,* 1998). Several authors suggest that the noise generated during motion is probably an important factor (Blane and Jaakson, 1994; Evans *et al.,* 1992; Evans *et al.,* 1994). Water disturbance may also be a factor. These studies suggest that the behavioral responses of marine mammals to surface vessels are similar to their behavioral responses to predators. Avoidance behavior is expected to be even stronger in the subset of instances during which the Navy is conducting training or testing activities using explosives.

The marine mammals most vulnerable to vessel strikes are those that spend extended periods of time at the surface in order to restore oxygen levels within their tissues after deep dives (*e.g.,* sperm whales). In addition, some baleen whales seem generally unresponsive to vessel sound, making them more susceptible to vessel collisions (Nowacek *et al.,* 2004). These species are primarily large, slow moving whales.

Some researchers have suggested the relative risk of a vessel strike can be assessed as a function of animal density and the magnitude of vessel traffic (*e.g.,* Fonnesbeck *et al.,* 2008; Vanderlaan *et al.,* 2008). Differences among vessel types also influence the probability of a vessel strike. The ability of any ship to detect a marine mammal and avoid a collision depends on a variety of factors, including environmental conditions, ship design, size, speed, and ability and number of personnel observing, as well as the behavior of the animal. Vessel speed, size, and mass are all important factors in determining if injury or death of a marine mammal is likely due to a vessel strike. For large vessels, speed and angle of approach can influence the severity of a strike. For example, Vanderlaan and Taggart (2007) found that, between vessel speeds of 8.6 and 15 knots, the probability that a vessel strike is lethal increases from 0.21 to 0.79. Large whales also do not have to be at the water's surface to be struck. Silber *et al.* (2010) found when a whale is below the surface (about one to two times the vessel draft), under certain circumstances (vessel speed and location of the whale relative to the ship's centerline), there is likely to be a pronounced propeller suction effect. This suction effect may draw the whale into the hull of the ship, increasing the probability of propeller strikes.

There are some key differences between the operation of military and non-military vessels, which make the likelihood of a military vessel striking a whale lower than some other vessels (*e.g.,* commercial merchant vessels). Key differences include:

- Many military ships have their bridges positioned closer to the bow, offering better visibility ahead of the ship (compared to a commercial merchant vessel);
- There are often aircraft associated with the training or testing activity (which can serve as Lookouts), which can more readily detect cetaceans in the vicinity of a vessel or ahead of a vessel's present course before crew on the vessel would be able to detect them;
- Military ships are generally more maneuverable than commercial merchant vessels, and if cetaceans are spotted in the path of the ship, could be capable of changing course more quickly;
- The crew size on military vessels is generally larger than merchant ships, allowing for stationing more trained Lookouts on the bridge. At all times when Navy vessels are underway, trained Lookouts and bridge navigation teams are used to detect objects on the surface of the water ahead of the ship, including cetaceans. Additional Lookouts, beyond those already stationed on the bridge and on navigation teams, are positioned as Lookouts during some training events; and
- When submerged, submarines are generally slow moving (to avoid detection) and therefore marine mammals at depth with a submarine are likely able to avoid collision with the submarine. When a submarine is transiting on the surface, there are Lookouts serving the same function as they do on surface ships.

While there have been vessel strikes documented with commercial vessels, NMFS has no documented vessel strikes of marine mammals by the Navy in the PMSR Study Area since the Navy started keeping records of ship strike in 1995. The only large Navy vessels homebased in the PMSR local area (Port Hueneme) are the Self Defense Test Ship and the Mobile Ship Target, which are both greater than 200 ft in length. There are smaller vessels used either as targets or for target recovery as well. The majority of Navy vessels (*e.g.,* LCS, destroyers) used during testing and training on the PMSR Study Area transit from San Diego Navy bases and typically transit further offshore and enter/exit the PMSR Study Area from

the southwestern boundaries to avoid commercial vessel traffic in and out of the Ports or Los Angeles/Long Beach via the Santa Barbara Channel.

The Navy transits at safer speeds and has other protective measures in place during transits, such as using Lookouts and maintaining safe distances from marine mammals (*e.g.,* 500 yd (457.2 m) for whales and 200 yd (182.88 m) around other marine mammals except bow-riding dolphins and pinnipeds hauled out on man-made navigational structures, port structures, and vessels). A DoD funded study (Mintz, 2016) on commercial and military vessel traffic in Southern California found that median vessel speed for Navy vessels in the Santa Barbara Channel and nearshore areas of the PMSR Study Area and SOCAL (part of the HSTT Study Area) was between 3 to 8 knots. Speed increased as vessels transited further offshore, between 10–16 knots, with the higher value on the furthest offshore areas of the PMSR Study Area. Commercial tankers and cargo median vessel speeds were between 8–14 knots for the same nearshore areas. Mintz (2016) indicated that Navy vessels make up only 4 percent of the overall vessel traffic off Southern California (PMSR/SOCAL). The data collected for Mintz (2016) was collected via AIS for commercial vessel data and SeaLink for military vessels (a classified Navy/Coast Guard database maintained by the Office of Naval Intelligence). The median surface speed of two of the classes of vessels used on the PMSR Study Area from 2011 through 2015 was below 12 knots. This median speed includes those training and testing operations that require elevated speeds, and being slightly above 10 knots, indicates that Naval vessels typically operate at speeds that would be expected to reduce the potential of vessel strike of a marine mammal.

The Navy has several standard operating procedures for vessel safety that could result in a secondary benefit to marine mammals through a reduction in the potential for vessel strike. For example, ships operated by or for the Navy have personnel assigned to stand watch at all times, day and night, when moving through the water (*i.e.,* when the vessel is underway). Watch personnel undertake extensive training in accordance with the U.S. Navy Lookout Training Handbook or civilian equivalent. A primary duty of watch personnel is to ensure safety of the ship, which includes the requirement to detect and report all objects and disturbances sighted in the water that may be indicative of a threat to the ship and its crew, such as debris, a periscope, surfaced submarine, or surface disturbance. Per safety requirements, watch personnel also report any marine mammals sighted that have the potential to be in the direct path of the ship, as a standard collision avoidance procedure. Navy vessels are required to operate in accordance with applicable navigation rules. These rules require that vessels proceed at a safer speed so proper and effective action can be taken to avoid collision and so vessels can be stopped within a distance appropriate to the prevailing circumstances and conditions. In addition to complying with navigation requirements, Navy ships transit at speeds that are optimal for fuel conservation, to maintain ship schedules, and to meet mission requirements. Vessel captains use the totality of the circumstances to ensure the vessel is traveling at appropriate speeds in accordance with navigation. This Navy message is also consistent with a message issued by the U.S. Coast Guard for vessels operating in the 11th district (covering the waters in and around the PMSR) as a Notice to Mariners that also informs operators about the presence of populations of blue, humpback, and fin whales in the area (see U.S. Coast Guard (2019) for further details).

For more information, please see section 3.7.1.1.1 *Vessels as a Strike Stressor* in the 2020 PMSR DEIS/OEIS. Additionally, the Navy has fewer vessel transits than commercial entities in the PMSR Study Area. To put the PMSR Navy vessel operations level in perspective, Table 6 includes an estimate of annual commercial shipping activity compared with vessel use in the PMSR Study Area. These annual estimates are representable of any given year as proposed for this rule. Navy vessels account for only about nine percent of the vessel traffic within the PMSR Study Area.

Table 6--Navy and Commercial Vessel Events on the PMSR Study Area

Vessel Type	Number of Events[1]
Project Ships	300
Support Boats	198
Small Support Boats	Up to 387[2]
Total PMSR Navy	836
Commercial Shipping Estimate	>7,000[3]

[1] "Event" is defined as one trip into the Sea Range for an assigned mission.

[2] Total number of HSMSTs and QST35s used as support boats

[3] Data collected is for FY15.

In addition, large Navy vessels (greater than 18 m in length) within the offshore areas of range complexes and testing ranges operate differently from commercial vessels in ways that may reduce potential for whale collisions. Surface ships operated by or for the Navy have multiple personnel assigned to stand watch at all times, when a ship or surfaced submarine is moving through the water (underway). A primary duty of personnel standing watch on surface ships is to detect and report all objects and disturbances sighted in the water that may indicate a threat to the vessel and its crew, such as debris, a periscope, surfaced submarine, or surface disturbance. Per vessel safety requirements, personnel standing watch also report any marine mammals sighted in the path of the vessel as a standard collision avoidance procedure. All vessels proceed at a safer speed so they can take proper and effective action to avoid a collision with any sighted object or disturbance, and can be stopped within a distance appropriate to the prevailing circumstances and conditions.

Between 2007 and 2009, the Navy developed and distributed additional training, mitigation, and reporting tools to Navy operators to improve marine

mammal protection and to ensure compliance with LOA requirements. In 2009, the Navy implemented Marine Species Awareness Training designed to improve effectiveness of visual observation for marine resources, including marine mammals. For over a decade, the Navy has implemented the Protective Measures Assessment Protocol software tool, which provides operators with notification of the required mitigation and a visual display of the planned training or testing activity location overlaid with relevant environmental data.

The Navy does not anticipate vessel strikes and has not requested authorization to take marine mammals by serious injury or mortality within the PMSR Study Area during training and testing activities. NMFS agrees with the Navy's conclusions based on this qualitative analysis; therefore, NMFS has preliminarily determined that the Navy's decision not to request take authorization for vessel strike of large whales is supported by multiple factors, including no previous instances of strikes by Navy vessels in the PMSR Study Area, relatively low at-sea days compared to other Navy training and testing study areas, fewer vessels used compared to other Navy training and testing study areas, ways in which the larger vessels operate in the PMSR Study Area, and the mitigation measures that would be in place to further minimize potential vessel strike.

In addition to the reasons listed above that make it unlikely that the Navy will hit a large whale (more maneuverable ships, larger crew, etc.), the following are additional reasons that vessel strike of dolphins and small whales is very unlikely. Dating back more than 20 years and for as long as it has kept records, the Navy has no records of individuals of these groups being struck by a vessel as a result of Navy activities and, further, their smaller size and maneuverability make a strike unlikely. Also, NMFS has never received any reports from other authorized activities indicating that these species have been struck by vessels. Worldwide ship strike records show little evidence of strikes of these groups from the shipping sector and larger vessels, and the majority of the Navy's activities involving faster-moving vessels (that could be considered more likely to hit a marine mammal) are located in offshore areas where smaller delphinid densities are lower. Based on this information, NMFS concurs with the Navy's assessment that vessel strike is not likely to occur for either large whales or smaller marine mammals.

Marine Mammal Habitat

Impacts on marine mammal habitat are part of the consideration in making a finding of negligible impact on the species and stocks of marine mammals. Habitat includes, but is not necessarily limited to, rookeries, mating grounds, feeding areas, and areas of similar significance. We do not anticipate that the Navy's proposed activities would result in permanent effects on the habitats used by the marine mammals in the PMSR Study Area, including the availability of prey (*i.e.,* fish and invertebrates). While it is anticipated that the proposed activity may result in marine mammals avoiding certain areas due to temporary ensonification, this impact to habitat is temporary and reversible and was considered in further detail earlier in this document, as behavioral modification. The main impact associated with the proposed activity will be temporarily elevated noise levels and the associated direct effects on marine mammals, previously discussed in this notice.

Effects to Prey—Sound may affect marine mammals through impacts on the abundance, behavior, or distribution of prey species (*e.g.,* crustaceans, cephalopods, fish, zooplankton). Marine mammal prey varies by species, season, and location and, for some species, is not well documented. Here, we describe studies regarding the effects of noise on known marine mammal prey.

Fish utilize the soundscape and components of sound in their environment to perform important functions such as foraging, predator avoidance, mating, and spawning (*e.g.,* Zelick *et al.,* 1999; Fay, 2009). The most likely effects on fishes exposed to loud, intermittent, low-frequency sounds are behavioral responses (*i.e.,* flight or avoidance). Short duration, sharp sounds (such as pile driving or air guns) can cause overt or subtle changes in fish behavior and local distribution. The reaction of fish to acoustic sources depends on the physiological state of the fish, past exposures, motivation (*e.g.,* feeding, spawning, migration), and other environmental factors. Key impacts to fishes may include behavioral responses, hearing damage, barotrauma (pressure-related injuries), and mortality.

Fishes, like other vertebrates, have a variety of different sensory systems to glean information from ocean around them (Astrup and Mohl, 1993; Astrup, 1999; Braun and Grande, 2008; Carroll *et al.,* 2017; Hawkins and Johnstone, 1978; Ladich and Popper, 2004; Ladich and Schulz-Mirbach, 2016; Mann, 2016; Nedwell *et al.,* 2004; Popper *et al.,* 2003; Popper *et al.,* 2005). Depending on their hearing anatomy and peripheral sensory structures, which vary among species, fishes hear sounds using pressure and particle motion sensitivity capabilities and detect the motion of surrounding water (Fay *et al.,* 2008) (terrestrial vertebrates generally only detect pressure). Most marine fishes primarily detect particle motion using the inner ear and lateral line system, while some fishes possess additional morphological adaptations or specializations that can enhance their sensitivity to sound pressure, such as a gas-filled swim bladder (Braun and Grande, 2008; Popper and Fay, 2011).

Hearing capabilities vary considerably between different fish species with data only available for just over 100 species out of the 34,000 marine and freshwater fish species (Eschmeyer and Fong, 2016). In order to better understand acoustic impacts on fishes, fish hearing groups are defined by species that possess a similar continuum of anatomical features which result in varying degrees of hearing sensitivity (Popper and Hastings, 2009a). There are four hearing groups defined for all fish species (modified from Popper *et al.,* 2014) within this analysis and they include: Fishes without a swim bladder (*e.g.,* flatfish, sharks, rays, *etc.*); fishes with a swim bladder not involved in hearing (*e.g.,* salmon, cod, pollock, *etc.*); fishes with a swim bladder involved in hearing (*e.g.,* sardines, anchovy, herring, *etc.*); and fishes with a swim bladder involved in hearing and high-frequency hearing (*e.g.,* shad and menhaden). Currently, less data are available to estimate the range of best sensitivity for fishes without a swim bladder.

In terms of behavioral responses of fish, Juanes *et al.* (2017) discuss the potential for negative impacts from anthropogenic soundscapes on fish, but the author's focus was on broader based sounds such as ship and boat noise sources. Occasional behavioral reactions to intermittent explosions occurring at or near the surface are unlikely to cause long-term consequences for individual fish or populations; there are no detonations of explosives occurring underwater from the proposed activities. Fish that experience hearing loss as a result of exposure to explosions may have a reduced ability to detect relevant sounds such as predators, prey, or social vocalizations. However, PTS has not been known to occur in fishes and any hearing loss in fish may be as temporary as the timeframe required to repair or replace the sensory cells that were damaged or destroyed (Popper *et al.,* 2005; Popper *et al.,* 2014; Smith *et al.,* 2006). It is not known if damage to

auditory nerve fibers could occur, and if so, whether fibers would recover during this process. It is also possible for fish to be injured or killed by an explosion in the immediate vicinity of the surface from dropped or fired ordnance. Physical effects from pressure waves generated by detonations at or near the surface could potentially affect fish within proximity of training or testing activities. The shock wave from occurring at or near the surface may be lethal to fish at close range, causing massive organ and tissue damage and internal bleeding (Keevin and Hempen, 1997). At greater distance from the detonation point, the extent of mortality or injury depends on a number of factors including fish size, body shape, orientation, and species (Keevin and Hempen, 1997; Wright, 1982). At the same distance from the source, larger fish are generally less susceptible to death or injury, elongated forms that are round in cross-section are less at risk than deep-bodied forms, and fish oriented sideways to the blast suffer the greatest impact (Edds-Walton and Finneran, 2006; O'Keeffe, 1984; O'Keeffe and Young, 1984; Wiley *et al.,* 1981; Yelverton *et al.,* 1975). Species with gas-filled organs are more susceptible to injury and mortality than those without them (Gaspin, 1975; Gaspin *et al.,* 1976; Goertner *et al.,* 1994).

Fish not killed or driven from a location by an explosion might change their behavior, feeding pattern, or distribution. Changes in behavior of fish have been observed as a result of sound produced by explosives, with effect intensified in areas of hard substrate (Wright, 1982). However, Navy would avoid hard substrate to the best extent practical in the course of their activities. Training and testing exercises involving explosions at or near the surface are dispersed in space and time; therefore, repeated exposure of individual fishes are unlikely. Mortality and injury effects to fishes from explosives would be localized around the area of a given explosion, but only if individual fish and the explosive at the surface were co-located at the same time. Fishes deeper in the water column or on the bottom would not be affected by surface explosions. Long-term consequences for fish populations, including key prey species within the PMSR Study Area, would not be expected.

Vessels and in-water devices do not normally collide with adult fish, most of which can detect and avoid them. Exposure of fishes to vessel strike stressors is limited to those fish groups that are large, slow-moving, and may occur near the surface, such as ocean sunfish, whale sharks, basking sharks, and manta rays. These species are distributed widely in offshore portions of the PMSR Study Area. Any isolated cases of a Navy vessel striking an individual could injure that individual, impacting the fitness of an individual fish. Vessel strikes would not pose a risk to most of the other marine fish groups, because many fish can detect and avoid vessel movements, making strikes rare and allowing the fish to return to their normal behavior after the ship or device passes. As a vessel approaches a fish, they could have a detectable behavioral or physiological response (*e.g.,* swimming away and increased heart rate) as the passing vessel displaces them. However, such reactions are not expected to have lasting effects on the survival, growth, recruitment, or reproduction of these marine fish groups at the population level and therefore would not have an impact on marine mammal species as prey items.

In addition to fish, prey sources such as marine invertebrates could potentially be impacted by sound stressors as a result of the proposed activities. However, most marine invertebrates' ability to sense sounds is very limited. In most cases, marine invertebrates would not respond to impulsive sounds. Data on response of invertebrates such as squid, another marine mammal prey species, to anthropogenic sound has been documented (de Soto, 2016; Sole *et al.,* 2017b). Explosions could kill or injure nearby marine invertebrates. Vessels also have the potential to impact marine invertebrates by disturbing the water column or sediments, or directly striking organisms (Bishop, 2008). The propeller wash (water displaced by propellers used for propulsion) from vessel movement and water displaced from vessel hulls can potentially disturb marine invertebrates in the water column and is a likely cause of zooplankton mortality (Bickel *et al.,* 2011). The localized and short-term exposure to at or near the surface explosions or vessels could displace, injure, or kill zooplankton, invertebrate eggs or larvae, and macro-invertebrates. However, mortality or long-term consequences for a few animals is unlikely to have measurable effects on overall populations. Long-term consequences to marine invertebrate populations would not be expected as a result of exposure to sounds of vessels in the PMSR Study Area.

Military expended materials resulting from training and testing activities could potentially result in minor long-term changes to benthic habitat, however the impacts of small amounts of expended materials are unlikely to have measurable effects on overall populations. Military expended materials may be colonized over time by benthic organisms that prefer hard substrate and would provide structure that could attract some species of fish or invertebrates.

Overall, the combined impacts of sound exposure, explosions, vessel strikes, and military expended materials resulting from the proposed activities would not be expected to have measurable effects on populations of marine mammal prey species. Prey species exposed to sound might move away from the sound source or show no obvious direct effects at all, but a rapid return to normal recruitment, distribution, and behavior is anticipated. Long-term consequences to fish or marine invertebrate populations would not be expected as a result of exposure to sounds or vessels in the PMSR Study Area.

Acoustic Habitat—Acoustic habitat is the soundscape which encompasses all of the sound present in a particular location and time, as a whole when considered from the perspective of the animals experiencing it. Animals produce sound for, or listen for sounds produced by, conspecifics (communication during feeding, mating, and other social activities), other animals (finding prey or avoiding predators), and the physical environment (finding suitable habitats, navigating). Together, sounds made by animals and the geophysical environment (*e.g.,* produced by earthquakes, lightning, wind, rain, waves) make up the natural contributions to the total acoustics of a place. These acoustic conditions, termed acoustic habitat, are one attribute of an animal's total habitat.

Soundscapes are also defined by, and acoustic habitat influenced by, the total contribution of anthropogenic sound. This may include incidental emissions from sources such as vessel traffic or may be intentionally introduced to the marine environment for data acquisition purposes (*e.g.,* as in the use of air gun arrays) or for Navy training and testing purposes (as in the use of explosives, and target and missile launches on SNI). Anthropogenic noise varies widely in its frequency, content, duration, and loudness, and these characteristics greatly influence the potential habitat-mediated effects to marine mammals, which may range from local effects for brief periods of time to chronic effects over large areas and for long durations. Depending on the extent of effects to habitat, animals may alter their communications signals (thereby

potentially expending additional energy) or miss acoustic cues (either conspecific or adventitious). Problems arising from a failure to detect cues are more likely to occur when noise stimuli are chronic and overlap with biologically relevant cues used for communication, orientation, and predator/prey detection (Francis and Barber, 2013). For more detail on these concepts see, *e.g.,* Barber *et al.,* 2009; Pijanowski *et al.,* 2011; Francis and Barber, 2013; Lillis *et al.,* 2014. We do not anticipate these problems arising from at or near surface explosions or from launched targets and missiles produced during training and testing activities as they would be more widely dispersed or concentrated in small areas for shorter periods of time. Anthropogenic noise attributable to Navy testing and training activities in the PMSR Study Area emanates from multiple sources including explosives, vessels, and launched targets and missiles occurring in the vicinity of pinniped haul out sites. Sound produced from training and testing activities in the PMSR Study Area would be temporary and transitory; the affected area would be expected to immediately return to the original state when these activities cease.

Water Quality—Training and testing activities may introduce water quality constituents into the water column. Based on the analysis of the 2020 PMSR DSEIS/OEIS, military expended materials (*e.g.,* undetonated explosive materials) would be released in quantities and at rates that would not result in a violation of any water quality standard or criteria. NMFS has reviewed this analysis and concurs that it reflects the best available science. High-order explosions consume most of the explosive material, creating typical combustion products. For example, in the case of the Royal Demolition Explosive, 98 percent of the products are common seawater constituents and the remainder is rapidly diluted below threshold effect level. Explosion by-products associated with high order detonations present no secondary stressors to marine mammals through sediment or water. However, low order detonations and unexploded ordnance present elevated likelihood of impacts on marine mammals.

Indirect effects of explosives and unexploded ordnance to marine mammals via sediment is possible in the immediate vicinity of the ordnance. Degradation products of the Royal Demolition Explosive are not toxic to marine organisms at realistic exposure levels (Rosen and Lotufo, 2010). Relatively low solubility of most explosives and their degradation products means that concentrations of these contaminants in the marine environment are relatively low and readily diluted. Furthermore, while explosives and their degradation products were detectable in marine sediment approximately 6–12 in (0.15–0.3 m) away from degrading ordnance, the concentrations of these compounds were not statistically distinguishable from background beyond 3–6 ft (1–2 m) from the degrading ordnance. Taken together, it is possible that marine mammals could be exposed to degrading explosives, but it would be within a very small radius of the explosive (1–6 ft (0.3–2 m)).

Equipment used by the Navy within the PMSR Study Area, including ships and other marine vessels, aircraft, and other equipment, are also potential sources of by-products. All equipment is properly maintained in accordance with applicable Navy and legal requirements. All such operating equipment meets Federal water quality standards, where applicable.

Airborne Launch Sounds on SNI—Various beaches around SNI are used by pinnipeds as places to rest, molt, and breed. These beaches consist of sand (*e.g.,* Red Eye Beach), rock ledges (*e.g.,* Phoca Reef), and rocky cobble (*e.g.,* Bachelor Beach). Pinnipeds continue to use beaches around the western end of SNI, and indeed are expanding their use of some beaches despite ongoing launch activities for many years. Similarly, it appears that sounds from prior launches have not affected pinniped use of coastal areas at VAFB.

Pinnipeds forage in the open ocean and in the waters near SNI; however, the airborne launch sounds would not persist in the water near SNI. Therefore, it is not expected that the launch activities would impact prey resources, Essential Fish Habitat (EFH), or feeding success of pinnipeds. Three types of EFH are present in the activity area: Groundfish, coastal pelagic species, and highly migratory species, as well as canopy kelp Habitat Areas of Particular Concern (HAPC). However, none of these types of EFH or HAPC will be impacted by the proposed activity.

Boosters from missiles (*e.g.,* jet-assisted take off rocket bottles for BQM drone missiles) may be jettisoned shortly after launch and fall on the island and would be collected, but are not expected to impact beaches. Fuel contained in these boosters is consumed rapidly and completely, so there would be no risk of contamination even in the very unlikely event that a booster did land on a beach or nearshore waters. Overall, the proposed missile launch activity is not expected to cause significant impacts or have permanent, adverse effects on pinniped habitats or on their foraging habitats and prey.

Estimated Take of Marine Mammals

This section indicates the number of takes that NMFS is proposing to authorize, which is based on the maximum amount that is reasonably likely to occur, depending on the type of take and the methods used to estimate it, as described in detail below. NMFS coordinated closely with the Navy in the development of their incidental take application, and preliminarily agrees that the methods the Navy has put forth described herein to estimate take (including the model, thresholds, and density estimates), and the resulting numbers estimated for authorization, are appropriate and based on the best available science.

All takes are by harassment. For a military readiness activity, the MMPA defines ''harassment'' as (i) Any act that injures or has the significant potential to injure a marine mammal or marine mammal stock in the wild (Level A Harassment); or (ii) Any act that disturbs or is likely to disturb a marine mammal or marine mammal stock in the wild by causing disruption of natural behavioral patterns, including, but not limited to, migration, surfacing, nursing, breeding, feeding, or sheltering, to a point where such behavioral patterns are abandoned or significantly altered (Level B Harassment). No serious injury or mortality of marine mammals is expected to occur.

Proposed authorized takes would primarily be in the form of Level B harassment, as use of the explosive sources and may result, either directly or as result of TTS, in the disruption of natural behavioral patterns to a point where they are abandoned or significantly altered (as defined specifically at the beginning of this section, but referred to generally as behavioral disruption). There is also the potential for Level A harassment, in the form of auditory injury to result from exposure to the sound sources utilized in training and testing activities.

Generally speaking, for acoustic impacts NMFS estimates the amount and type of harassment by considering: (1) Acoustic thresholds above which NMFS believes the best available science indicates marine mammals will be taken by Level B harassment or incur some degree of temporary or permanent hearing impairment; (2) the area or volume of water that will be ensonified above these levels in a day or event; (3) the density or occurrence of marine mammals within these ensonified areas;

and (4) the number of days of activities or events.

Acoustic Thresholds

Using the best available science, NMFS, in coordination with the Navy, has established acoustic thresholds that identify the most appropriate received level of underwater sound above which marine mammals exposed to these sound sources could be reasonably expected to directly experience a disruption in behavior patterns to a point where they are abandoned or significantly altered, to incur TTS (equated to Level B harassment), or to incur PTS of some degree (equated to Level A harassment). Thresholds have also been developed to identify the pressure levels above which animals may incur non-auditory injury from exposure to pressure waves from explosive detonation. Refer to the *Criteria and Thresholds for U.S. Navy Acoustic and Explosive Effects Analysis (Phase III) report* (U.S. Department of the Navy, 2017c) for detailed information on how the criteria and thresholds were derived.

Despite the quickly evolving science, there are still challenges in quantifying expected behavioral responses that qualify as take by Level B harassment, especially where the goal is to use one or two predictable indicators *(e.g.,* received level and distance) to predict responses that are also driven by additional factors that cannot be easily incorporated into the thresholds (*e.g.,* context). So, while the behavioral harassment thresholds have been refined here to better consider the best available science (*e.g.,* incorporating both received level and distance), they also still have some built-in conservative factors to address the challenge noted. For example, while duration of observed responses in the data are now considered in the thresholds, many of the responses that are informing take thresholds are of a very short duration, such that it is possible that responses will not rise to the level of disrupting behavior patterns to a point where they are abandoned or significantly altered. We describe the application of this behavioral harassment threshold as identifying the maximum number of instances in which marine mammals could be reasonably expected to experience a disruption in behavior patterns to a point where they are abandoned or significantly altered. In summary, we believe these behavioral harassment thresholds are the most appropriate method for predicting Level B harassment by behavioral disturbance given the best available science and the associated uncertainty.

Hearing Impairment (TTS/PTS), Tissues Damage, and Mortality

NMFS' Acoustic Technical Guidance (NMFS, 2018) identifies dual criteria to assess auditory injury (Level A harassment) to five different marine mammal groups (based on hearing sensitivity) as a result of exposure to noise from two different types of sources (impulsive or non-impulsive). The Acoustic Technical Guidance also identifies criteria to predict TTS, which is not considered injury and falls into the Level B harassment category. The Navy's proposed activity only includes the use of impulsive (explosives) sources. These thresholds (Table 7) were developed by compiling and synthesizing the best available science and soliciting input multiple times from both the public and peer reviewers. The references, analysis, and methodology used in the development of the thresholds are described in Acoustic Technical Guidance, which may be accessed at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-acoustic-technical-guidance.*

Based on the best available science, the Navy (in coordination with NMFS) used the acoustic and pressure thresholds indicated in Table 7 to predict the onset of TTS, PTS, tissue damage, and mortality for explosives (impulsive) and other impulsive sound sources.

TABLE 7—ONSET OF TTS, PTS, TISSUE DAMAGE, AND MORTALITY THRESHOLDS FOR MARINE MAMMALS FOR EXPLOSIVES AND OTHER IMPULSIVE SOURCES

Functional hearing group	Species	Onset TTS	Onset PTS	Mean onset slight GI tract injury	Mean onset slight lung injury	Mean onset mortality
Low-frequency cetaceans.	All mysticetes	168 dB SEL (weighted) or 213 dB Peak SPL.	183 dB SEL (weighted). or 219 dB Peak SPL.	237 dB Peak SPL	Equation 1	Equation 2
Mid-frequency cetaceans.	Most delphinids, medium and large toothed whales.	170 dB SEL (weighted) or 224 dB Peak SPL.	185 dB SEL (weighted) or 230 dB Peak SPL.	237 dB Peak SPL.		
High-frequency cetaceans.	Porpoises and Kogia spp.	140 dB SEL (weighted) or 196 dB Peak SPL.	155 dB SEL (weighted) or 202 dB Peak SPL.	237 dB Peak SPL.		

Notes:
Equation 1: $47.5M^{1/3}$ $(1+[D_{Rm}/10.1])^{1/6}$ Pa-sec.
Equation 2: $103M^{1/3}$ $(1+[D_{Rm}/10.1])^{1/6}$ Pa-sec.
M = mass of the animals in kg.
D_{Rm} = depth of the receiver (animal) in meters.
SPL = sound pressure level.

Refer to the *Criteria and Thresholds for U.S. Navy Acoustic and Explosive Effects Analysis* (Phase III) report (U.S. Department of the Navy, 2017c) for detailed information on how the criteria and thresholds were derived. Non-auditory injury (*i.e.,* other than PTS) and mortality are so unlikely as to be discountable under normal conditions and are therefore not considered further in this analysis.

The mitigation measures associated with explosives are expected to be effective in preventing non-auditory tissue damage to any potentially affected species, and when considered in combination with the modeled

exposure results, no species are anticipated to incur non-auditory tissue damage during the period of this rule. Table 16 indicates the range of effects for tissue damage for different explosive types. The Navy will implement mitigation measures (described in the Proposed Mitigation Measures section) during explosive activities, including delaying detonations when a marine mammal is observed in the mitigation zone. Nearly all explosive events will occur during daylight hours to improve the sightability of marine mammals and thereby improve mitigation effectiveness. Observing for marine mammals during the explosive activities will include visual methods before the activity begins, in order to cover the mitigation zone (*e.g.,* 2,500 yds (2,286 m) for explosive bombs).

Behavioral Disturbance

Though significantly driven by received level, the onset of Level B harassment by direct behavioral disturbance from anthropogenic noise exposure is also informed to varying degrees by other factors related to the source (*e.g.,* frequency, predictability, duty cycle, distance), the environment (*e.g.,* bathymetry), and the receiving animals (hearing, motivation, experience, demography, behavioral context) and can be difficult to predict (Ellison *et al.,* 2011; Southall *et al.,* 2007). Based on what the available science indicates and the practical need to use thresholds based on a factor, or factors, that are both predictable and measurable for most activities, NMFS uses generalized acoustic thresholds based primarily on received level (and distance in some cases) to estimate the onset of Level B harassment by behavioral disturbance.

Explosives—Explosive thresholds for Level B harassment by behavioral disturbance for marine mammals are the hearing groups' TTS thresholds minus 5 dB (see Table 8 below and Table 7 for the TTS thresholds for explosives) for events that contain multiple impulses from explosives underwater. This was the same approach as taken in Phase II and Phase III for explosive analysis in other Navy training and testing Study Areas. See the *Criteria and Thresholds for U.S. Navy Acoustic and Explosive Effects Analysis (Phase III)* report (U.S. Department of the Navy, 2017c) for detailed information on how the criteria and thresholds were derived. NMFS continues to concur that this approach represents the best available science for determining behavioral disturbance of marine mammals from multiple explosives. While marine mammals may also respond to single explosive detonations, these responses are expected to more typically be in the form of startle reaction, rather than a disruption in natural behavioral patterns to the point where they are abandoned or significantly altered. On the rare occasion that a single detonation might result in a more severe behavioral response that qualifies as Level B harassment, it would be expected to be in response to a comparatively higher received level. Accordingly, NMFS considers the potential for these responses to be quantitatively accounted for through the application of the TTS threshold, which as noted above is 5dB higher than the behavioral harassment threshold for multiple explosives.

TABLE 8—THRESHOLDS FOR LEVEL B HARASSMENT BY BEHAVIORAL DISTURBANCE FOR EXPLOSIVES FOR MARINE MAMMALS

Medium	Functional hearing group	SEL (weighted)
Underwater	LF	163
Underwater	MF	165
Underwater	HF	135
Underwater	Otariids	183
Underwater	Phocids	165

Note: Weighted SEL thresholds in dB re 1 μPa^2s underwater. LF = low-frequency, MF = mid-frequency, HF = high-frequency.

Navy's Acoustic Effects Model

The Navy's Acoustic Effects Model calculates sound energy propagation from sonar and other transducers and explosives during naval activities and the sound received by animat dosimeters. Animat dosimeters are virtual representations of marine mammals distributed in the area around the modeled naval activity and each dosimeter records its individual sound ''dose.'' The model bases the distribution of animats over the PMSR Study Area on the density values in the *Navy Marine Species Density Database* and distributes animats in the water column proportional to the known time that species spend at varying depths.

The model accounts for environmental variability of sound propagation in both distance and depth when computing the received sound level received by the animats. The model conducts a statistical analysis based on multiple model runs to compute the estimated effects on animals. The number of animats that exceed the thresholds for effects is tallied to provide an estimate of the number of marine mammals that could be affected.

Assumptions in the Navy model intentionally err on the side of overestimation when there are unknowns. Naval activities are modeled as though they would occur regardless of proximity to marine mammals, meaning that no mitigation is considered and without any avoidance of the activity by the animal. The final step of the quantitative analysis of acoustic effects is to consider the implementation of mitigation and the possibility that marine mammals would avoid continued or repeated sound exposures. For more information on this process, see the discussion in the *Take Estimation* subsection below. Many explosions from ordnance such as bombs and missiles actually occur upon impact with above-water targets. However, for this analysis, sources such as these were modeled as exploding underwater, which overestimates the amount of explosive and acoustic energy entering the water.

The model estimates the impacts caused by individual training and testing exercises. During any individual modeled event, impacts to individual animats are considered over 24-hour periods. The animats do not represent actual animals, but rather a distribution of animals based on density and abundance data, which allows for a statistical analysis of the number of instances that marine mammals may be exposed to sound levels resulting in an effect. Therefore, the model estimates the number of instances in which an effect threshold was exceeded over the course of a year, but does not estimate the number of individual marine mammals that may be impacted over a year (*i.e.,* some marine mammals could be impacted several times, while others would not experience any impact). A detailed explanation of the Navy's Acoustic Effects Model is provided in the technical report *Quantifying Acoustic Impacts on Marine Species: Methods and Analytical Approach for Activities at the Point Mugu Sea Range* (U.S. Department of the Navy, 2020).

Range to Effects

The following section provides range (distance) to effects for explosives, to specific acoustic thresholds determined using the Navy Acoustic Effects Model. Marine mammals exposed within these ranges for the shown duration are predicted to experience the associated effect. Range to effects is important information in not only predicting acoustic impacts, but also in verifying the accuracy of model results against real-world situations and determining adequate mitigation ranges to avoid higher level effects, especially

physiological effects to marine mammals.

Explosives

The following section provides the range (distance) over which specific physiological or behavioral effects are expected to occur based on the explosive criteria (see Section 6, Section 6.5.2.1.1 of the Navy's rulemaking/LOA application and the *Criteria and Thresholds for U.S. Navy Acoustic and Explosive Effects Analysis (Phase III)* report (U.S. Department of the Navy, 2017c)) and the explosive propagation calculations from the Navy Acoustic Effects Model (see Section 6, Section 6.5.2.1.3, Navy Acoustic Effects Model of the Navy's rulemaking/LOA application). The range to effects is shown for a range of explosive bins, from E1 (up to 0.25 lb net explosive weight) to E10 (up to 500 lb net explosive weight) (Tables 11 through 17). Explosive bins not shown on these tables include E2, E4, E7, E11, and E12, as they are not used in the PMSR Study Area and therefore not included in Tables 11 through 17. Ranges are determined by modeling the distance that noise from an explosion would need to propagate to reach exposure level thresholds specific to a hearing group that would cause behavioral response (to the degree of Level B harassment), TTS, PTS, and non-auditory injury. Ranges are provided for a representative source depth and cluster size for each bin. For events with multiple explosions, sound from successive explosions can be expected to accumulate and increase the range to the onset of an impact based on SEL thresholds. Ranges to non-auditory injury and mortality are shown in Tables 16 and 17, respectively. NMFS has reviewed the range distance to effect data provided by the Navy and concurs with the analysis. For additional information on how ranges to impacts from explosions were estimated, see the technical report *Quantifying Acoustic Impacts on Marine Species: Methods and Analytical Approach for Activities at the Point Mugu Sea Range* (U.S. Department of the Navy, 2020).

Table 11 shows the minimum, average, and maximum ranges to onset of auditory and behavioral effects that likely rise to the level of Level B harassment for high-frequency cetaceans based on the developed thresholds.

TABLE 11—SEL-BASED RANGES (METERS) TO ONSET PTS, ONSET TTS, AND LEVEL B HARASSMENT BY BEHAVIORAL DISTURBANCE FOR HIGH-FREQUENCY CETACEANS

Bin	Cluster size	PTS	TTS	Behavioral
E1	1	353 (130–825)	1,234 (290–3,025)	2,141 (340–4,775)
	25	1,188 (280–3,025)	3,752 (490–8,525)	5,196 (675–12,275)
E3	1	654 (220–1,525)	2,294 (350–4,775)	3,483 (490–7,775)
	12	1,581 (300–3,525)	4,573 (650–10,275)	6,188 (725–14,775)
E5	25	2,892 (440–6,275)	6,633 (725–16,025)	8,925 (800–22,775)
E6	1	1,017 (280–2,525)	3,550 (490–7,775)	4,908 (675–12,275)
E8	1	1,646 (775–2,525)	4,322 (1,525–9,775)	5,710 (1,525–14,275)
E9	1	2,105 (850–4,025)	4,901 (1,525–12,525)	6,700 (1,525–16,775)
E10	1	2,629 (875–5,275)	5,905 (1,525–13,775)	7,996 (1,525–20,025)

[1]Average distance in meters is depicted above the minimum and maximum distances, which are in parentheses.
Notes: SEL = Sound Exposure Level, PTS = permanent threshold shift, TTS = temporary threshold shift.

Table 12 shows the minimum, average, and maximum ranges to onset of auditory and behavioral effects that likely rise to the level of Level B harassment for mid-frequency cetaceans based on the developed thresholds.

TABLE 12—SEL-BASED RANGES (METERS) TO ONSET PTS, ONSET TTS, AND LEVEL B HARASSMENT BY BEHAVIORAL DISTURBANCE FOR MID-FREQUENCY CETACEANS

Bin	Cluster Size	PTS	TTS	Behavioral
E1	1	25 (25–25)	118 (80–210)	178 (100–320)
	25	107 (75–170)	476 (150–1,275)	676 (240–1,525)
E3	1	50 (45–65)	233 (110–430)	345 (130–600)
	12	153 (90–250)	642 (220–1,525)	897 (270–2,025)
E5	25	318 (130–625)	1,138 (280–3,025)	1,556 (310–3,775)
E6	1	98 (70–170)	428 (150–800)	615 (210–1,525)
E8	1	160 (150–170)	676 (500–725)	942 (600–1,025)
E9	1	215 (200–220)	861 (575–950)	1,147 (650–1,525)
E10	1	275 (250–480)	1,015 (525–2,275)	1,424 (675–3,275)

[1]Average distance in meters to mortality is depicted above the minimum and maximum distances, which are in parentheses.
Notes: SEL = Sound Exposure Level, PTS = permanent threshold shift, TTS = temporary threshold shift.

Table 13 shows the minimum, average, and maximum ranges to onset of auditory and behavioral effects that likely rise to the level of Level B harassment for low-frequency cetaceans based on the developed thresholds.

TABLE 13—SEL-BASED RANGES (METERS) TO ONSET PTS, ONSET TTS, AND LEVEL B HARASSMENT BY BEHAVIORAL DISTURBANCE FOR LOW-FREQUENCY CETACEANS

Bin	Cluster size	PTS	TTS	Behavioral
E1	1	51 (40–70)	227 (100–320)	124 (70–160)
	25	205 (95–270)	772 (270–1,275)	476 (190–725)

TABLE 13—SEL-BASED RANGES (METERS) TO ONSET PTS, ONSET TTS, AND LEVEL B HARASSMENT BY BEHAVIORAL DISTURBANCE FOR LOW-FREQUENCY CETACEANS—Continued

Bin	Cluster size	PTS	TTS	Behavioral
E3	1	109 (65–150)	503 (190–1,000)	284 (120–430)
	12	338 (130–525)	1,122 (320–7,775)	761 (240–6,025)
E5	25	740 (220–6,025)	2,731 (460–22,275)	1,414 (350–14,275)
E6	1	250 (100–420)	963 (260–7,275)	617 (200–1,275)
E8	1	460 (170–950)	1,146 (380–7,025)	873 (280–3,025)
E9	1	616 (200–1,275)	1,560 (450–12,025)	1,014 (330–5,025)
E10	1	787 (210–2,525)	2,608 (440–18,275)	1,330 (330–9,025)

[1]Average distance in meters to mortality is depicted above the minimum and maximum distances, which are in parentheses.
Notes: SEL = Sound Exposure Level, PTS = permanent threshold shift, TTS = temporary threshold shift.

TABLE 14—SEL-BASED RANGES (METERS) TO ONSET PTS, ONSET TTS, AND LEVEL B HARASSMENT BY BEHAVIORAL DISTURBANCE FOR OTARIIDS

Bin	Cluster size	PTS	TTS	Behavioral
E1	1	7 (7–7)	34 (30–40)	56 (45–70)
	25	30 (25–35)	136 (80–180)	225 (100–320)
	10	25 (25–30)	115 (70–150)	189 (95–250)
E3	1	16 (15–19)	70 (50–95)	115 (70–150)
	12	45 (35–65)	206 (100–290)	333 (130–450)
	12	55 (50–60)	333 (280–750)	544 (440–1,025)
E5	25	98 (60–120)	418 (160–575)	626 (240–1,000)
E6	1	30 (25–35)	134 (75–180)	220 (100–320)
E8	1	50 (50–50)	235 (220–250)	385 (330–450)
E9	1	68 (65–70)	316 (280–360)	494 (390–625)
E10	1	86 (80–95)	385 (240–460)	582 (390–800)

[1]Average distance in meters to mortality is depicted above the minimum and maximum distances, which are in parentheses.
Notes: SEL = Sound Exposure Level, PTS = permanent threshold shift, TTS = temporary threshold shift.

TABLE 15—SEL-BASED RANGES (METERS) TO ONSET PTS, ONSET TTS, AND LEVEL B HARASSMENT BY BEHAVIORAL DISTURBANCE FOR PHOCIDS

Bin	Cluster size	PTS	TTS	Behavioral
E1	1	45 (40–65)	210 (100–290)	312 (130–430)
	25	190 (95–260)	798 (280–1,275)	1,050 (360–2,275)
E2	1	58 (45–75)	258 (110–360)	383 (150–550)
	10	157 (85–240)	672 (240–1,275)	934 (310–1,525)
E3	1	96 (60–120)	419 (160–625)	607 (220–900)
	12	277 (120–390)	1,040 (370–2,025)	1,509 (525–6,275)
E5	25	569 (200–850)	2,104 (725–9,275)	2,895 (825–11,025)
E6	1	182 (90–250)	767 (270–1,275)	1,011 (370–1,775)
E8	1	311 (290–330)	1,154 (625–1,275)	1,548 (725–2,275)
E9	1	416 (350–470)	1,443 (675–2,025)	1,911 (800–3,525)
E10	1	507 (340–675)	1,734 (725–3,525)	2,412 (800–5,025)

[1] Average distance (in meters) to PTS, TTS, and behavioral thresholds are depicted above the minimum and maximum distances, which are in parentheses. Values depict the range produced by SEL hearing threshold criteria levels.
Notes: SEL = Sound Exposure Level, PTS = permanent threshold shift, TTS = temporary threshold shift.

Table 16 shows the minimum, average, and maximum ranges due to varying propagation conditions to non-auditory injury as a function of animal mass and explosive bin (*i.e.,* net explosive weight). Ranges to gastrointestinal tract injury typically exceed ranges to slight lung injury; therefore, the maximum range to effect is not mass-dependent. Animals within these water volumes would be expected to receive minor injuries at the outer ranges, increasing to more substantial injuries, and finally mortality as an animal approaches the detonation point.

TABLE 16—RANGES [1] TO 50 PERCENT NON-AUDITORY INJURY RISK FOR ALL MARINE MAMMAL HEARING GROUPS

Bin	Range (m) (min-max)
E1	12 (11–13)
E3	25 (25–30)
E5	40 (35–140)
E6	52 (40–120)
E8	117 (75–400)
E9	120 (90–290)
E10	174 (100–480)

Note: All ranges to non-auditory injury within this table are driven by the gastrointestinal (GI) tract injury threshold regardless of animal mass.

Ranges to mortality, based on animal mass, are shown in Table 17 below.

TABLE 17—RANGES [1] TO 50 PERCENT MORTALITY RISK FOR ALL MARINE MAMMAL HEARING GROUPS AS A FUNCTION OF ANIMAL MASS

Bin	Animal mass intervals (kg) [1]					
	10	250	1,000	5,000	25,000	72,000
E1	3 (2–3)	0 (0–3)	0 (0–0)	0 (0–0)	0 (0–0)	0 (0–0)
E3	8 (6–10)	4 (2–8)	1 (0–2)	0 (0–0)	0 (0–0)	0 (0–0)
E5	13 (11–45)	7 (4–35)	3 (3–12)	2 (0–8)	0 (0–2)	0 (0–2)
E6	18 (14–55)	10 (5–45)	5 (3–15)	3 (2–10)	0 (0–3)	0 (0–2)
E8	50 (24–110)	27 (9–55)	13 (0–20)	9 (4–13)	4 (0–6)	3 (0–5)
E9	32 (30–35)	20 (13–30)	10 (8–12)	7 (6–9)	4 (3–4)	3 (2–3)
E10	56 (40–190)	25 (16–130)	13 (11–16)	9 (7–11)	5 (4–5)	4 (3–4)

[1] Average distance (m) to mortality is depicted above the minimum and maximum distances, which are in parentheses.

Marine Mammal Density

A quantitative analysis of impacts on a species or stock requires data on their abundance and distribution that may be affected by anthropogenic activities in the potentially impacted area. The most appropriate metric for this type of analysis is density, which is the number of animals present per unit area. Marine species density estimation requires a significant amount of effort to both collect and analyze data to produce a reasonable estimate. Unlike surveys for terrestrial wildlife, many marine species spend much of their time submerged, and are not easily observed. In order to collect enough sighting data to make reasonable density estimates, multiple observations are required, often in areas that are not easily accessible (*e.g.,* far offshore). Ideally, marine mammal species sighting data would be collected for the specific area and time period *(e.g.,* season) of interest and density estimates derived accordingly. However, in many places, poor weather conditions and high sea states prohibit the completion of comprehensive visual surveys.

For most cetacean species, abundance is estimated using line-transect surveys or mark-recapture studies (*e.g.,* Barlow, 2016, 2010; Barlow and Forney, 2007; Calambokidis *et al.,* 2008; Calambokidis and Barlow, 2020; Cooke, 2019; Forney *et al.,* 2014; Trickey *et al.,* 2020). The result provides one single density estimate value for each species across broad geographic areas. This is the general approach applied in estimating cetacean abundance in NMFS' SARs. Although the single value provides a good average estimate of abundance (total number of individuals) for a specified area, it does not provide information on the species distribution or concentrations within that area, and it does not estimate density for other timeframes or seasons that were not surveyed. More recently, spatial habitat modeling developed by NMFS' Southwest Fisheries Science Center has been used to estimate cetacean densities (Barlow *et al.,* 2009, 2020; Becker *et al.,* 2010, 2012a, b, c, 2014, 2016; Ferguson *et al.,* 2006a; Forney *et al.,* 2012, 2015; Redfern *et al.,* 2006; Rockwood *et al.,* 2020). These models estimate cetacean density as a continuous function of habitat variables (*e.g.,* sea surface temperature, seafloor depth, etc.) and thus allow predictions of cetacean densities on finer spatial scales than traditional line-transect or mark recapture analyses and for areas that have not been surveyed. Within the geographic area that was modeled, densities can be predicted wherever these habitat variables can be measured or estimated.

To characterize marine species density for large oceanic regions, the Navy reviews, critically assesses, and prioritizes existing density estimates from multiple sources, requiring the development of a systematic method for selecting the most appropriate density estimate for each combination of species, area, and season. The selection and compilation of the best available marine species density data resulted in the Navy Marine Species Density Database (NMSDD) (U.S. Department of the Navy, 2017). The finest temporal resolution (seasonal) for the NMSDD data for the HSTT Study Area was also used for the PMSR Study Area. The Navy vetted all cetacean densities with NMFS prior to use in the Navy's acoustic analysis for this proposed rulemaking.

A variety of density data and density models are needed in order to develop a density database that encompasses the entirety of the PMSR Study Area. Because these data are collected using different methods with varying amounts of accuracy and uncertainty, the Navy has developed a hierarchy to ensure the most accurate data is used when available. The technical report titled *Quantifying Acoustic Impacts on Marine Species: Methods and Analytical Approach for Activities at the Point Mugu Sea Range* (U.S. Department of the Navy, 2020), hereafter referred to as the Density Technical Report, describes these models in detail and provides detailed explanations of the models applied to each species density estimate. The list below describes models in order of preference.

1. Spatial density models are preferred and used when available because they provide an estimate with the least amount of uncertainty by deriving estimates for divided segments of the sampling area. These models (see Becker *et al.,* 2016; Forney *et al.,* 2015) predict spatial variability of animal presence as a function of habitat variables (*e.g.,* sea surface temperature, seafloor depth, etc.). This model is developed for areas, species, and, when available, specific timeframes (months or seasons) with sufficient survey data; therefore, this model cannot be used for species with low numbers of sightings.

2. Stratified design-based density estimates use line-transect survey data with the sampling area divided (stratified) into sub-regions, and a density is predicted for each sub-region (see Barlow, 2016; Becker *et al.,* 2016; Bradford *et al.,* 2017; Campbell *et al.,* 2014; Jefferson *et al.,* 2014). While geographically stratified density estimates provide a better indication of a species' distribution within the study area, the uncertainty is typically high because each sub-region estimate is based on a smaller stratified segment of the overall survey effort.

3. Design-based density estimations use line-transect survey data from land and aerial surveys designed to cover a specific geographic area (see Carretta *et al.,* 2015). These estimates use the same survey data as stratified design-based estimates, but are not segmented into sub-regions and instead provide one estimate for a large surveyed area. Although relative environmental suitability (RES) models provide estimates for areas of the oceans that have not been surveyed using

information on species occurrence and inferred habitat associations and have been used in past density databases, these models were not used in the current quantitative analysis.

Below we describe how densities were determined for the species in the PMSR Study Area.

The Navy developed a protocol and database to select the best available data sources based on species, area, and time (season). The resulting Geographic Information System database, used in the NMSDD, includes seasonal density values for every marine mammal species present within the PMSR Study Area. This database is described in the *Quantifying Acoustic Impacts on Marine Species: Methods and Analytical Approach for Activities at the Point Mugu Sea Range* (U.S. Department of the Navy, 2020) (also referred to as the Density Technical Report in this rule).

The Navy describes some of the challenges of interpreting the results of the quantitative analysis summarized above and described in the Density Technical Report: ''It is important to consider that even the best estimate of marine species density is really a model representation of the values of concentration where these animals might occur. Each model is limited to the variables and assumptions considered by the original data source provider. No mathematical model representation of any biological population is perfect, and with regards to marine mammal density, any single model method will not completely explain the actual distribution and abundance of marine mammal species. It is expected that there would be anomalies in the results that need to be evaluated, with independent information for each case, to support if we might accept or reject a model or portions of the model (U.S. Department of the Navy, 2017a).'' There was only one species, the harbor porpoise, where there was no density estimate available within the PMSR Study Area so a new density layer was developed for harbor porpoise. Forney *et al.* (2014) provided uniform density for harbor porpoise for the species as a whole in California (Figure 7–25 in the Density Technical Report). Although these density estimates may not fully describe PMSR interannual variability, fluctuations in population size, or spatial distributions, they represent the best available science due to the paucity of other data.

NMFS coordinated with the Navy in the development of its take estimates and concurs that the Navy's approach for density appropriately utilizes the best available science. Later, in the Preliminary Analysis and Negligible Impact Determination section, we assess how the estimated take numbers compare to abundance in order to better understand the potential number of individuals impacted.

Take Estimation

The 2020 PMSR DEIS/OEIS considered all training and testing activities proposed to occur in the PMSR Study Area that have the potential to result in the MMPA-defined take of marine mammals. The Navy determined that the three stressors below could result in the incidental taking of marine mammals. NMFS has reviewed the Navy's data and analysis and determined that it is complete and accurate and agrees that the following stressors from the Navy's proposed activities have the potential to result in takes by harassment.

- Acoustics (weapons firing noise; Explosions at or near the water surface can introduce loud, impulsive, broadband sounds into the marine environment);
- Explosives (explosive shock wave and sound at or near the water surface (<10 m)); and
- Land-based launch noise on SNI from missiles and rocket launches.

To predict marine mammal exposures to explosives, and because there is currently no means to model impacts on marine mammals from in-air detonations, the Navy's analysis conservatively models all detonations occurring within 10 m above the water's surface, as a point source located 10 centimeters underwater (U.S. Department of the Navy, 2019a). The model also assumes that all acoustic energy from the detonation remains underwater with no sound transmitted into the air. Important considerations must be factored into the analysis of results with these modeling assumptions, given that the peak pressure and sound from a detonation in air significantly decreases as it is partially reflected by the water's surface and partially transmitted underwater, as detailed in the following paragraphs. The Navy performed a quantitative analysis to estimate the probability that marine mammals could be exposed to the sound and energy from explosions during Navy testing and training activities and the effects of those exposures. The effects of underwater explosions on marine mammals depend on a variety of factors including animal size and depth; charge size and depth; depth of the water column; and distance between the animal and the charge. In general, an animal near the water surface would be less susceptible to injury because the pressure wave reflected from the water surface would interfere with the direct path pressure wave, reducing positive pressure exposure.

The quantitative analysis process (used for the 2020 PMSR DEIS/OEIS and the Navy's take request in the rulemaking/LOA application) to estimate potential exposures to marine mammals resulting from acoustic and explosive stressors is detailed in the technical report titled *Quantifying Acoustic Impacts on Marine Species: Methods and Analytical Approach for Activities at the Point Mugu Sea Range* (U.S. Department of the Navy, 2020). The Navy Acoustic Effects Model (NAEMO) brings together scenario simulations of the Navy's activities, sound propagation modeling, and marine mammal distribution (based on density and group size) by species to model and quantify the exposure of marine mammals above identified thresholds for behavioral harassment, TTS, PTS, non-auditory injury (lung and GI), and serious injury and mortality.

NAEMO estimates acoustic and explosive effects without taking mitigation or avoidance into account; therefore, the model overestimates predicted impacts on marine mammals within mitigation zones. The NAEMO (animal movement) model overestimates the number of marine mammals that would be exposed to sound sources that could cause PTS because the model does not consider horizontal movement of animats, including avoidance of high intensity sound exposures. As a general matter, NMFS does not prescribe the methods for estimating take for any applicant, but we review and ensure that applicants use the best available science, and methodologies that are logical and technically sound. Applicants may use different methods of calculating take (especially when using models) and still get to a result that is representative of the best available science and that allows for a rigorous and accurate evaluation of the effects on the affected populations. There are multiple aspects of the Navy's take estimation methods—propagation models, animat movement models, and behavioral thresholds, for example. NMFS evaluates the acceptability of these aspects as they evolve and are used in different rules and impact analyses. Some of the aspects of the Navy's take estimation process have been used in Navy incidental take rules since 2009 and have undergone multiple public comment processes; all of them have undergone extensive internal Navy review, and all of them have undergone comprehensive review by NMFS, has sometimes resulted in

modifications to methods or models. The Navy uses rigorous review processes (verification, validation, and accreditation processes, peer and public review) to ensure the data and methodology it uses represent the best available science. For instance, the NAEMO model is the result of a NMFS-led Center for Independent Experts (CIE) review of the components used in earlier models. The acoustic propagation component of the NAEMO model (CASS/GRAB) is accredited by the Oceanographic and Atmospheric Master Library (OAML), and many of the environmental variables used in the NAEMO model come from approved OAML databases and are based on in-situ data collection. The animal density components of the NAEMO model are base products of the NMSDD, which includes animal density components that have been validated and reviewed by a variety of scientists from NMFS Science Centers and academic institutions. Finally the NAEMO model simulation components underwent QA/QC review and validation for model parts such as the scenario builder, acoustic builder, scenario simulator, etc., conducted by qualified statisticians and modelers to ensure accuracy. Other models and methodologies have gone through similar review processes.

In summary, we believe the Navy's methods, including the underlying NAEMO modeling, are the most appropriate methods for predicting non-auditory injury, PTS, TTS, and behavioral disturbance. We would describe the application of these methods as identifying the maximum number of instances in which marine mammals would be reasonably expected to be taken through PTS, TTS, or behavioral disturbance.

Summary of Estimated Take Request From Training and Testing Activities

Based on the methods discussed in the previous sections and the Navy's model, the Navy provided its take estimate and request for authorization of takes incidental to the use of explosive sources and target/missile launches for training and testing activities both annually (based on the maximum number of activities that could occur per year) and over the seven-year period covered by the Navy's rulemaking/LOA application. NMFS has reviewed the Navy's data, methodology, and analysis and determined that it is complete and accurate. NMFS agrees that the estimates for incidental takes by harassment from all sources requested for authorization are the maximum number of instances in which marine mammals are reasonably expected to be taken.

Estimated Harassment Take From Training and Testing Activities

Tables 18 and 19 summarize the Navy's take estimate, which NMFS concurs with, and includes the maximum amount of Level A harassment and Level B harassment reasonably expected to occur by species and stock for explosives and missile launch activities on SNI expected annually and for the seven-year period.

TABLE 18—PROPOSED ANNUAL AND SEVEN-YEAR TOTAL SPECIES-SPECIFIC TAKE ESTIMATES FROM EXPLOSIVES FOR ALL TRAINING AND TESTING ACTIVITIES IN THE PMSR STUDY AREA (NOT INCLUSIVE OF LAUNCH EVENTS ON SNI)

Common name	Stock/DPS	Proposed annual take by Level A and Level B harassment			Proposed 7-year total take by Level A and Level B harassment **		
		Behavioral response	TTS	PTS	Behavioral response	TTS	PTS
Blue whale *	Eastern North Pacific	7	4	0	52	27	0
Bryde's whale	Eastern Tropical Pacific	0	0	0	0	0	0
Fin whale *	California, Oregon, and Washington.	14	7	1	101	46	7
Gray whale	Eastern North Pacific	9	5	0	65	37	0
	Western North Pacific †	0	0	0	0	0	0
Humpback whale *	California, Oregon, and Washington/Mexico DPS.	7	4	0	52	29	0
	California, Oregon, and Washington/Central America DPS.	1	0	0	6	0	0
Minke whale	California, Oregon, and Washington.	2	1	0	15	6	0
Sei whale *	Eastern North Pacific	0	0	0	0	0	0
Baird's beaked whale	California, Oregon, and Washington.	0	0	0	0	0	0
Bottlenose dolphin	California Coastal	0	0	0	0	0	0
	California, Oregon, and Washington Offshore.	5	5	1	37	36	4
Cuvier's beaked whale	California, Oregon, and Washington.	0	0	0	0	0	0
Dall's porpoise	California, Oregon, and Washington.	261	406	49	1,824	2,845	341
Dwarf sperm whale	California, Oregon, and Washington.	20	31	6	142	217	43
Harbor Porpoise	Morro Bay	0	0	0	0	0	0
Killer whale	Eastern North Pacific Offshore.	0	0	0	0	0	0
	Eastern North Pacific Transient or West Coast Transient [6].	0	0	0	0	0	0
Long-beaked common dolphin.	California	66	44	9	454	310	65

TABLE 18—PROPOSED ANNUAL AND SEVEN-YEAR TOTAL SPECIES-SPECIFIC TAKE ESTIMATES FROM EXPLOSIVES FOR ALL TRAINING AND TESTING ACTIVITIES IN THE PMSR STUDY AREA (NOT INCLUSIVE OF LAUNCH EVENTS ON SNI)—Continued

Common name	Stock/DPS	Proposed annual take by Level A and Level B harassment			Proposed 7-year total take by Level A and Level B harassment**		
		Behavioral response	TTS	PTS	Behavioral response	TTS	PTS
Mesoplodont spp	California, Oregon, and Washington.	0	0	0	0	0	0
Northern right whale dolphin.	California, Oregon, and Washington.	3	2	1	22	16	4
Pacific white-sided dolphin	California, Oregon, and Washington.	11	8	2	76	58	14
Pygmy killer whale	NSD	0	0	0	0	0	0
Pygmy sperm whale	California, Oregon, and Washington.	20	31	6	141	219	44
Risso's dolphins	California, Oregon, and Washington.	6	3	1	39	24	6
Short-beaked common dolphin.	California, Oregon, and Washington.	90	65	15	630	456	103
Short-finned pilot whale	California, Oregon, and Washington.	0	0	0	0	0	0
Sperm whale*	California, Oregon, and Washington.	1	1	0	7	8	0
Striped dolphin	California, Oregon, and Washington.	1	1	0	5	4	0
Harbor seal	California	202	120	14	1,415	842	99
Northern elephant seal	California	37	63	22	258	444	152
California sea lion	U.S. Stock	8	12	2	58	81	16
Guadalupe fur seal*	Mexico to California	1	1	0	5	7	0
Northern fur seal	California	0	0	0	0	0	0

* ESA-listed species in PMSR.
** 7-year total impacts may differ from the annual total times seven as a result of standard rounding.
† Only the indicated DPS is ESA-listed.
Note: NSD = No stock designation.

TABLE 19—ANNUAL AND SEVEN-YEAR TOTAL SPECIES-SPECIFIC TAKE ESTIMATES PROPOSED FROM TARGET AND MISSILE LAUNCH ACTIVITIES ON SNI IN THE PMSR STUDY AREA

Species	Stock	Proposed annual take by Level B harassment	Proposed 7-year total take by Level B harassment
California sea lion	U.S	11,000	77,000
Harbor seal	California	480	3,360
Northern elephant seal	California	40	280

Proposed Mitigation Measures

Under section 101(a)(5)(A) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to the activity, and other means of effecting the least practicable adverse impact on the species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stocks for subsistence uses (''least practicable adverse impact''). NMFS does not have a regulatory definition for least practicable adverse impact. The 2004 NDAA amended the MMPA as it relates to military readiness activities and the incidental take authorization process such that a determination of ''least practicable adverse impact'' shall include consideration of personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity.

In evaluating how mitigation may or may not be appropriate to ensure the least practicable adverse impact on species or stocks and their habitat, as well as subsistence uses where applicable, we carefully consider two primary factors. (1) The first factor is the manner in which, and the degree to which, the successful implementation of the measure(s) is expected to reduce impacts to marine mammal species or stocks, and their habitat. This analysis considers the nature of the potential adverse impact (likelihood, scope, and range). It further considers the likelihood that the measure will be effective if implemented (probability of accomplishing the mitigating result if implemented as planned), the likelihood of effective implementation (probability implemented as planned). (2) The second factor is the practicability of the measures for applicant implementation, which may consider such things as cost, impact on operations, and, in the case of a military readiness activity, specifically considers personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity.

We refer the reader to the Navy's Northwest Training and Testing (NWTT) rule (85 FR 72312; November 12, 2020) for further explanation of our interpretation of least practicable

adverse impact, and what distinguishes it from the negligible impact standard.

Assessment of Mitigation Measures for the PMSR Study Area

Section 216.104(a)(11) of NMFS' implementing regulations requires an applicant for incidental take authorization to include in its request, among other things, ''the availability and feasibility (economic and technological) of equipment, methods, and manner of conducting such activity or other means of effecting the least practicable adverse impact upon the affected species or stocks, their habitat, and [where applicable] on their availability for subsistence uses, paying particular attention to rookeries, mating grounds, and areas of similar significance.'' Thus NMFS' analysis of the sufficiency and appropriateness of an applicant's measures under the least practicable adverse impact standard will always begin with evaluation of the mitigation measures presented in the application.

NMFS has fully reviewed the specified activities and the mitigation measures included in the Navy's rulemaking/LOA application and the 2020 PMSR DEIS/OEIS to determine if the mitigation measures would result in the least practicable adverse impact on marine mammals and their habitat. NMFS worked with the Navy in the development of the Navy's initially proposed measures, which were informed by years of implementation and monitoring. A complete discussion of the Navy's evaluation process used to develop, assess, and select mitigation, which was informed by input from NMFS, can be found in Section 5 (*Standing Operating Procedures and Mitigation*) of the 2020 PMSR DEIS/OEIS. The process described in Section 5 (*Standing Operating Procedures and Mitigation*) of the 2020 PMSR DEIS/OEIS robustly supported NMFS' independent evaluation of whether the mitigation measures meet the least practicable adverse impact standard. The Navy would be required to implement the mitigation measures identified in this rule for the full seven years to avoid or reduce potential impacts from explosives, launch activities, and physical disturbance and vessel strike stressors.

As a general matter, where an applicant proposes measures that are likely to reduce impacts to marine mammals, the fact that they are included in the application indicates that the measures are practicable, and it is not necessary for NMFS to conduct a detailed analysis of the measures the applicant proposed (rather, they are simply included). However, it is still necessary for NMFS to consider whether there are additional practicable measures that would meaningfully reduce the probability or severity of impacts that could affect reproductive success or survivorship.

Overall, the Navy has agreed to procedural mitigation measures that would reduce the probability and/or severity of impacts expected to result from acute exposure to explosives and launch activities, vessel strike, and impacts to marine mammal habitat. Specifically, the Navy would use a combination of delayed starts, and cease firing to avoid mortality or serious injury, minimize the likelihood or severity of PTS or other injury, and reduce instances of TTS or more severe behavioral disruption caused by explosives and launch activities.

The Navy assessed the practicability of the proposed measures in the context of personnel safety, practicality of implementation, and their impacts on the Navy's ability to meet their Title 10 requirements and found that the measures are supportable. As described in more detail below, NMFS has independently evaluated the measures the Navy proposed in consideration of their ability to reduce adverse impacts on marine mammal species and their habitat and their practicability for implementation. We have preliminarily determined that the measures will significantly and adequately reduce impacts on the affected marine mammal species and stocks and their habitat and, further, be practicable for Navy implementation. Therefore, the mitigation measures assure that the Navy's activities will have the least practicable adverse impact on the species or stocks and their habitat.

The Navy also evaluated numerous measures in the 2020 PMSR DEIS/OEIS that were not included in the Navy's rulemaking/LOA application, and NMFS independently reviewed and preliminarily concurs with the Navy's analysis that their inclusion was not appropriate under the least practicable adverse impact standard based on our assessment. The Navy considered these additional potential mitigation measures in two groups. First, Chapter 5 (*Standing Operating Procedures and Mitigation)* of the 2020 PMSR DEIS/OEIS, in the *Measures Considered but Eliminated* section, includes an analysis of an array of different types of mitigation that have been recommended over the years by non-governmental organizations or the public, through scoping or public comment on environmental compliance documents. As described in Chapter 5 (*Standing Operating Procedures and Mitigation*) of the 2020 PMSR DEIS/OEIS, commenters sometimes recommend that the Navy reduce explosive use, or include area restrictions. Many of these mitigation measures could potentially reduce the number of marine mammals taken, via direct reduction of the activities or amounts. However, as described in Chapter 5 (*Standing Operating Procedures and Mitigation*) of the 2020 PMSR DEIS/OEIS, the Navy needs to train and test in the conditions in which it conducts warfare, and these types of modifications fundamentally change the activity in a manner that would not support the purpose and need for the training and testing (*i.e.,* are entirely impracticable) and therefore are not considered further. NMFS finds the Navy's explanation for why adoption of these recommendations would unacceptably undermine the purpose of the testing and training persuasive. After independent review, NMFS finds Navy's judgment on the impacts of potential mitigation measures to personnel safety, practicality of implementation, and the effectiveness of training and testing within the PMSR Study Area persuasive, and for these reasons, NMFS finds that these measures do not meet the least practicable adverse impact standard because they are not practicable.

Second, in Chapter 5 (*Standing Operating Procedures and Mitigation*) of the 2020 PMSR DEIS/OEIS, the Navy evaluated an additional potential procedural mitigation measure, the use of thermal detection. The use of thermal detection had the potential to incrementally reduce take to some degree in certain circumstances, though the degree to which this would occur is typically low or uncertain. However, as described in the Navy's analysis, the measures would have significant direct negative effects on mission effectiveness and are considered impracticable (see Section 5 *Standing Operating Procedures and Mitigation* of 2020 PMSR DEIS/OEIS). NMFS independently reviewed the Navy's evaluation and concurs with this assessment, which supports NMFS' preliminary findings that the impracticability of this additional mitigation measure would greatly outweigh any potential minor reduction in marine mammal impacts that might result; therefore, this additional mitigation measure is not warranted.

Section 5 (*Standing Operating Procedures and Mitigation*) of the 2020 PMSR DEIS/OEIS also describes a comprehensive method for analyzing potential geographic mitigation that includes consideration of both a

biological assessment of how the potential time/area limitation would benefit the species and its habitat (*e.g.,* is a key area of biological importance or would result in avoidance or reduction of impacts) in the context of the stressors of concern in the specific area and an operational assessment of the practicability of implementation (*e.g.,* including an assessment of the specific importance of that area for training, considering proximity to training ranges and emergency landing fields and other issues). For most of the areas that were considered in the 2020 PMSR DEIS/OEIS but not included in this rule, the Navy found that geographic mitigation was not warranted because the anticipated reduction of adverse impacts on marine mammal species and their habitat was not sufficient to offset the impracticability of implementation.

The Navy considered that moving activities farther from SNI and outside of the SNI Feeding Area would not be practicable, because the added distance would substantially limit the capabilities of ground-based telemetry systems, antennas, surveillance, and metric radar systems, as well as command transmitter systems located at Point Mugu, Laguna Peak, Santa Cruz Island, and SNI. These systems are required to measure, monitor, and control various test platforms in real time; collect transmitted data for post event analysis; and enable surveillance of the area to ensure the safety of the public. Optimal functional distance for some of the ground-based radar systems is 10–200 nmi and may be limited by line-of-sight for some systems. Ground-based telemetry systems rely on using in-place fiber optic cables directly linked to remote locations or microwave to transmit signals. The ground-based command transmitter system provides safe, controlled testing of unmanned targets, platforms, and missiles, including unmanned aircraft, boat or ship targets, ballistic missiles, and other long-range vehicles, all within a 40-mi radius of the transmitter. The command transmitter system also provides flight termination capability for weapons and targets that are considered too hazardous for test flights. Relocating ground-based instrumentation to other locations would result in an extensive cost to the Navy, or potentially reduce military readiness.

NMFS has reviewed the Navy's analysis in Section 5 *Standing Operating Procedures and Mitigation* of the 2020 PMSR DEIS/OEIS, which considers the same factors that NMFS considers to satisfy the least practicable adverse impact standard, and preliminarily concurs with the analysis and conclusions. Therefore, NMFS is not proposing to include any of the measures that the Navy ruled out in the 2020 PMSR DEIS/OEIS. Below are the mitigation measures that NMFS determined will ensure the least practicable adverse impact on all affected species and their habitat, including the specific considerations for military readiness activities. The following sections describe the mitigation measures that would be implemented in association with the training and testing activities analyzed in this document. The mitigation measures all consist of procedural mitigation.

Procedural Mitigation

Procedural mitigation is mitigation that the Navy would implement whenever and wherever an applicable training or testing activity takes place within the PMSR Study Area. Procedural mitigation generally involves: (1) The use of one or more trained Lookouts to diligently observe for specific biological resources (including marine mammals) within a mitigation zone, (2) requirements for Lookouts to immediately communicate sightings of specific biological resources to the appropriate watch station for information dissemination, and (3) requirements for the watch station to implement mitigation (*e.g.,* halt an activity) until certain recommencement conditions have been met. The first procedural mitigation (Table 20) is designed to aid Lookouts and other applicable Navy personnel with their observation, environmental compliance, and reporting responsibilities. The remainder of the procedural mitigation measures (Tables 21 through 29) are organized by stressor type and activity category and include acoustic stressors (*i.e.,* weapons firing noise), explosive stressors (*i.e.,* medium-caliber and large-caliber projectiles, missiles and rockets, bombs), and physical disturbance and strike stressors (*i.e.,* vessel movement, small-, medium-, and large-caliber non-explosive practice munitions, non-explosive missiles, and non-explosive bombs).

TABLE 20—MITIGATION FOR ENVIRONMENTAL AWARENESS AND EDUCATION

Mitigation description
Stressor or Activity: • All testing and training activities, as applicable. *Mitigation Zone Size and Mitigation Requirements:* • Appropriate personnel involved in mitigation and training or testing activity reporting under the Proposed Action will complete one or more modules of the U.S Navy Afloat Environmental Compliance Training Series, as identified in their career path training plan. Modules include: ○ Introduction to the U.S. Navy Afloat Environmental Compliance Training Series. The introductory module provides information on environmental laws (*e.g.,* ESA, MMPA) and the corresponding responsibilities relevant to Navy testing and training. The material explains why environmental compliance is important in supporting the Navy's commitment to environmental stewardship. ○ Marine Species Awareness Training. All bridge watch personnel, Commanding Officers, Executive Officers, maritime patrol aircraft aircrews, anti-submarine warfare and mine warfare rotary-wing aircrews, Lookouts, and equivalent civilian personnel must successfully complete the Marine Species Awareness Training prior to standing watch or serving as a Lookout. The Marine Species Awareness Training provides information on sighting cues, visual observation tools and techniques, and sighting notification procedures. Navy biologists developed Marine Species Awareness Training to improve the effectiveness of visual observations for biological resources, focusing on marine mammals and sea turtles, and including floating vegetation, jellyfish aggregations, and flocks of seabirds. ○ U.S. Navy Protective Measures Assessment Protocol. This module provides the necessary instruction for accessing mitigation requirements during the event planning phase using the Protective Measures Assessment Protocol software tool.

Mitigation measures for weapons firing noise as an acoustic stressor is provided below in Table 21.

TABLE 21—MITIGATION FOR WEAPONS FIRING NOISE

Mitigation description
Stressor or Activity Mitigation Applies to: • Weapons firing noise associated with large-caliber gunnery activities. *Number of Lookouts and Observation Platform:* • 1 Lookout positioned on the ship conducting the firing. —Depending on the activity, the Lookout could be the same as the one described in Table 22 (Mitigation for Small-, Medium-, and Large-Caliber Non-Explosive Practice Munitions). *Mitigation Requirements:* • Mitigation zone: —30° on either side of the firing line out to 70 yd. from the muzzle of the weapon being fired. • Prior to the initial start of the activity: —Observe the mitigation zone for floating vegetation; if observed, relocate or delay the start until the mitigation zone is clear. —Observe the mitigation zone for marine mammals if observed, relocate or delay the start of weapons firing. • During the activity: —Observe the mitigation zone for floating vegetation and marine mammals; if observed, cease weapons firing. • Conditions for commencing/recommencing the activity after a marine mammal before or during the activity: —The Navy will allow a sighted marine mammal to leave the mitigation zone prior to the initial start of the activity (by delaying the start) or during the activity (by not recommencing weapons firing) until one of the following conditions has been met: (1) The animal is observed exiting the mitigation zone; (2) the animal is thought to have exited the mitigation zone based on a determination of its course, speed, and movement relative to the firing ship; (3) the mitigation zone has been clear from any additional sightings for 30 min.; or (4) for mobile activities, the firing ship has transited a distance equal to double that of the mitigation zone size beyond the location of the last sighting and there have been no new sightings.

The Navy will implement mitigation measures to avoid or reduce potential impacts on marine mammals from the explosive stressors occurring at or near the surface resulting in underwater noise and energy. Mitigation measures for explosive stressors are provided in Table 22 through Table 24.

TABLE 22—MITIGATION FOR EXPLOSIVE MEDIUM-CALIBER AND LARGE-CALIBER PROJECTILES

Mitigation description
Stressor or Activity Mitigation Applies to: • Gunnery activities using explosive medium-caliber and large-caliber projectiles. • Activities using a maritime surface target. *Number of Lookouts and Observation Platform:* • 1 Lookout on the vessel or aircraft conducting the activity. —For activities using explosive large-caliber projectiles, depending on the activity, the Lookout could be the same as the one described in Table 21 (Mitigation for Weapons Firing Noise). • If additional platforms are participating in the activity, personnel positioned in those assets (*e.g.,* safety observers, evaluators) will support observing the mitigation zone for applicable biological resources while performing their regular duties. *Mitigation Requirements:* • Mitigation zones: —200 yd (182.88 m) around the intended impact location for air-to-surface activities using explosive medium-caliber projectiles, or —600 yd (548.64 m) around the intended impact location for surface-to-surface activities using explosive medium-caliber projectiles, or —1,000 yd (914.4 m) around the intended impact location for surface-to-surface activities using explosive large-caliber projectiles. • Prior to the start of the activity (*e.g.,* when maneuvering on station): —Observe for floating vegetation and marine mammals; if observed, relocate or delay the start until the mitigation zone is clear. —During the activity, observe for floating vegetation and marine mammals; if resource is observed, cease firing. • Conditions for commencing/recommencing the activity after a marine mammal sighting before or during the activity: —The Navy will allow a sighted marine mammal to leave the mitigation zone prior to the initial start of the activity (by delaying the start) or during the activity (by not recommencing firing) until one of the following conditions has been met until one of the recommencement conditions has been met: (1) The animal is observed exiting the mitigation zone; (2) the animal is thought to have exited the mitigation zone based on a determination of its course, speed, and movement relative to the intended impact location; (3) the mitigation zone has been clear from any additional sightings for 10 min. for aircraft-based firing or 30 min. for vessel-based firing; or (4) for activities using mobile targets, the intended impact location has transited a distance equal to double that of the mitigation zone size beyond the location of the last sighting and there have been no new sightings . • After completion of the activity (*e.g.,* prior to maneuvering off station): —When practical (*e.g.,* when platforms are not constrained by fuel restrictions or mission-essential follow-on commitments), observe the vicinity of where detonations occurred; if any injured or dead marine mammals, follow established incident reporting procedures. If additional platforms are supporting this activity (*e.g.,* providing range clearance), these assets will assist in the visual observation of the area where detonations occurred.

TABLE 23—MITIGATION FOR EXPLOSIVE MISSILES AND ROCKETS

Mitigation description
Stressor or Activity Mitigation Applies to: • Aircraft-deployed explosive missiles and rockets. • Activities using a maritime surface target at ranges up to 75 nmi. *Number of Lookouts and Observation Platform:* • 1 Lookout positioned in an aircraft. • If additional platforms are participating in the activity, personnel positioned in those assets (*e.g.*, safety observers, evaluators) will support observing the mitigation zone for applicable biological resources while performing their regular duties. *Mitigation Requirements:* • Mitigation zones: —900 yd (822.96 m) around the intended impact location for missiles or rockets with 0.6–20 lb net explosive weight. —2,000 yd (1,828.8 m) around the intended impact location for missiles with 21–500 lb net explosive weight. • Prior to the initial start of the activity (e.g., during a fly-over of the mitigation zone): —Observe the mitigation zone for floating vegetation; if observed, relocate or delay the start until the mitigation zone is clear. —Observe the mitigation zone for marine mammals; if observed, relocate or delay the start of firing. • During the activity: —Observe the mitigation zone for floating vegetation and marine mammals; if observed, cease firing. • Conditions for commencing/recommencing the activity after a marine mammal sighting before or during the activity: —The Navy will allow a sighted marine mammal to leave the mitigation zone prior to the initial start of the activity (by delaying the start) or during the activity (by not recommencing firing) until one of the following conditions has been met: (1) The animal is observed exiting the mitigation zone; (2) the animal is thought to have exited the mitigation zone based on a determination of its course, speed, and movement relative to the intended impact location; or (3) the mitigation zone has been clear from any additional sightings for 10 min. when the activity involves aircraft that have fuel constraints, or 30 min. when the activity involves aircraft that are not typically fuel constrained. • After completion of the activity (*e.g.*, prior to maneuvering off station): —When practical (*e.g.*, when platforms are not constrained by fuel restrictions or mission-essential follow-on commitments), observe the vicinity of where detonations occurred; if any injured or dead marine mammals or ESA-listed species are observed, follow established incident reporting procedures. If additional platforms are supporting this activity (*e.g.*, providing range clearance), these assets will assist in the visual observation of the area where detonations occurred.

TABLE 24—MITIGATION FOR EXPLOSIVE BOMBS

Mitigation description
Stressor or Activity Mitigation Applies to: • Explosive bombs. *Number of Lookouts and Observation Platform:* • 1 Lookout positioned in the aircraft conducting the activity. • If additional platforms are participating in the activity, personnel positioned in those assets (*e.g.*, safety observers, evaluators) will support observing the mitigation zone for applicable biological resources while performing their regular duties. *Mitigation Requirements:* • Mitigation zone: —2,500 yd (2,286 m) around the intended target. • Prior to the start of the activity (*e.g.,* when arriving on station): —Observe the mitigation zone for floating vegetation and marine mammals; If floating vegetation or marine mammals are observed, Navy personnel must relocate or delay the start of bomb deployment. • During the activity (*e.g.,* during target approach): —Observe the mitigation zone for floating vegetation and marine mammals; if observed, cease bomb deployment. • Conditions for commencing/recommencing of the activity after a marine mammal sighting before or during the activity: —The Navy will allow a sighted marine mammal to leave the mitigation zone prior to the initial start of the activity (by delaying the start) or during the activity (by not recommencing bomb deployment) until one of the recommencement conditions has been met: (1) The animal is observed exiting the mitigation zone; (2) the animal is thought to have exited the mitigation zone based on a determination of its course, speed, and movement relative to the intended target; (3) the mitigation zone has been clear from any additional sightings for 10 min.; or (4) for activities using mobile targets, the intended target has transited a distance equal to double that of the mitigation zone size beyond the location of the last sighting and there have been no new sightings. • After completion of the activity (*e.g.,* prior to maneuvering off station): —When practical (*e.g.,* when platforms are not constrained by fuel restrictions or mission-essential follow-on commitments), observe the vicinity of where detonations occurred; if any injured or dead marine mammals or ESA-listed species are observed, follow established incident reporting procedures. —If additional platforms are supporting this activity (*e.g.,* providing range clearance), these assets will assist in the visual observation of the area where detonations occurred.

Mitigation for physical disturbance and strike stressors are provided in Table 25 through Table 29.

TABLE 25—MITIGATION FOR VESSEL MOVEMENT

Mitigation description
Stressor or Activity Mitigation Applies to: • Vessel movement. • The mitigation will not be required if (1) the vessel's safety is threatened, (2) the vessel is restricted in its ability to maneuver (*e.g.,* during launching and recovery of aircraft or landing craft, during towing activities, when mooring, etc.), (3) the vessel is operated autonomously, or (4) when impracticable based on mission requirements (*e.g.,* There are a few specific testing and training events that include requirements for certain systems where vessels would operate at higher speeds. As an example, some tests involve using the High-Speed Maneuvering Surface Target (HSMST). During these events, ships must operate across the full spectrum of capable speeds to accomplish the primary testing objectives). *Number of Lookouts and Observation Platform:* • 1 Lookout on the vessel that is underway. *Mitigation Requirements:* • Mitigation zone: —500 yd (457.2 m) around whales. —200 yd (182.88 m) around all other marine mammals (except bow-riding dolphins and pinnipeds hauled out on man-made navigational structures, port structures, and vessels). • *During the activity:* —When underway, observe the mitigation zone for marine mammals; if observed, maneuver to maintain distance. • *Additional requirements:* —If a marine mammal vessel strike occurs, the Navy will follow the established incident reporting procedures.

TABLE 26—MITIGATION FOR SMALL-, MEDIUM-, AND LARGE-CALIBER NON-EXPLOSIVE PRACTICE MUNITIONS

Mitigation description
Stressor or Activity Mitigation Applies to: • Gunnery activities using small-, medium-, and large-caliber non-explosive practice munitions. • Activities using a maritime surface target. *Number of Lookouts and Observation Platform:* • 1 Lookout positioned on the platform conducting the activity. • Depending on the activity, the Lookout could be the same as the one described in Table 21 (Mitigation for Weapons Firing Noise). *Mitigation Requirements:* • Mitigation zone: —200 yd (182.88 m) around the intended impact location. • Prior to the initial start of the activity (*e.g.,* when maneuvering on station): —Observe the mitigation zone for floating vegetation; if observed, relocate or delay the start until the mitigation zone is clear. —Observe the mitigation zone for marine mammals; if observed, relocate or delay the start of firing. • During the activity: —Observe the mitigation zone for floating vegetation and marine mammals; if observed, cease firing. • Conditions for commencing/recommencing the activity after a marine mammal sighting before or during the activity: —The Navy will allow a sighted marine mammal to leave the mitigation zone prior to the initial start of the activity (by delaying the start) or during the activity (by not recommencing firing) until one of the following conditions has been met: (1) The animal is observed exiting the mitigation zone; (2) the animal is thought to have exited the mitigation zone based on a determination of its course, speed, and movement relative to the intended impact location; (3) the mitigation zone has been clear from any additional sightings for 10 min. for aircraft-based firing or 30 min. for vessel-based firing; or (4) for activities using a mobile target, the intended impact location has transited a distance equal to double that of the mitigation zone size beyond the location of the last sighting and there have been no new sightings.

TABLE 27—MITIGATION FOR NON-EXPLOSIVE MISSILES AND ROCKETS

Mitigation description
Stressor or Activity Mitigation Applies to: • Aircraft-deployed non-explosive missiles and rockets. • Activities using a maritime surface target at ranges of up to 75 nmi. *Number of Lookouts and Observation Platform:* • 1 Lookout positioned in an aircraft. *Mitigation Requirements:* • Mitigation zone: —900 yd (822.96 m) around the intended impact location. • Prior to the initial start of the activity (*e.g.,* during a fly-over of the mitigation zone): —Observe the mitigation zone for floating vegetation; if observed, relocate or delay the start until the mitigation zone is clear. —Observe the mitigation zone for marine mammals; if observed, relocate or delay the start of firing. • During the activity: —Observe the mitigation zone for floating vegetation and marine mammals; if observed, cease firing. • Conditions for commencing/recommencing the activity after a marine mammal sighting prior to or during the activity:

TABLE 27—MITIGATION FOR NON-EXPLOSIVE MISSILES AND ROCKETS—Continued

Mitigation description
—The Navy will allow a sighted marine mammal to leave the mitigation zone prior to the initial start of the activity (by delaying the start) or during the activity (by not recommencing firing) until one of the following conditions has been met: (1) The animal is observed exiting the mitigation zone; (2) the animal is thought to have exited the mitigation zone based on a determination of its course, speed, and movement relative to the intended impact location; or (3) the mitigation zone has been clear from any additional sightings for 10 min. when the activity involves aircraft that have fuel constraints, or 30 min. when the activity involves aircraft that are not typically fuel constrained.

TABLE 28—MITIGATION FOR NON-EXPLOSIVE BOMBS

Mitigation description
Stressor or Activity Mitigation Applies to: • Non-explosive bombs. *Number of Lookouts and Observation Platform:* • 1 Lookout positioned in an aircraft. *Mitigation Requirements:* • Mitigation zone: —900 yd (822.96 m) around the intended impact location. • Prior to the start of the activity (*e.g.,* when arriving on station): —Observe the mitigation zone for floating vegetation; if observed, relocate or delay the start of bomb deployment until the mitigation zone is clear. —Observe the mitigation zone for marine mammals; if observed, relocate or delay the start of bomb deployment. • During the activity (*e.g.,* during approach of the target): —Observe the mitigation zone for floating vegetation and marine mammals; if observed, cease bomb deployment. • Conditions for commencing/recommencing the activity after a marine mammal sighting prior to or during the activity: The Navy will allow a sighted marine mammal to leave the mitigation zone prior to the initial start of the activity (by delaying the start) or during the activity (by not recommencing bomb deployment or mine laying) until one of the following conditions has been met: (1) The animal is observed exiting the mitigation zone; (2) the animal is thought to have exited the mitigation zone based on a determination of its course, speed, and movement relative to the intended target or minefield location; (3) the mitigation zone has been clear from any additional sightings for 10 min.; or (4) for activities using mobile targets, the intended target has transited a distance equal to double that of the mitigation zone size beyond the location of the last sighting and there have been no new sightings.

Target and Missile Launches from SNI

Mitigation for target and missile launch activities from SNI are provided below in Table 29.

TABLE 29—MITIGATION FOR TARGET AND MISSILE LAUNCHES FROM SNI

Mitigation description
Stressor or Activity Mitigation Applies to: • Target and Missile launches from SNI. *Mitigation Requirements:* • Navy personnel shall not enter pinniped haulouts or rookeries. Personnel may be adjacent to pinniped haulouts and rookeries prior to and following a launch for monitoring purposes. • Missiles shall not cross over pinniped haulouts at elevations less than 305 m (1,000 ft) above the haulout. • The Navy must not conduct more than 40 launch events annually. • The Navy must not conduct more than 10 launch events at night of the 40 annual launch events. • Launches shall be scheduled to avoid peak pinniped pupping periods between January and July, to the maximum extent practicable. • All manned aircraft and helicopter flight paths must maintain a minimum distance of 305 m (1,000 ft) from recognized pinniped haulouts and rookeries, except in emergencies or for real-time security incidents. • For unmanned aircraft systems (UAS), the following minimum altitudes must be maintained over pinniped haulout areas and rookeries: Class 0–2 UAS must maintain a minimum altitude of 300 ft; Class 3 UAS must maintain a minimum altitude of 500 ft; Class 4 or 5 UAS must not be flown below 1,000 ft. • If a species for which authorization has not been granted is taken, or a species for which authorization has been granted but the authorized takes are met, the Navy must consult with NMFS to determine how to proceed. • The Navy must review the launch procedure and monitoring methods, in cooperation with NMFS, if any incidents of injury or mortality of a pinniped are discovered during post-launch surveys, or if surveys indicate possible effects to the distribution, size, or productivity of the affected pinniped populations as a result of the specified activities. If necessary, appropriate changes must be made through modification to this Authorization prior to conducting the next launch of the same vehicle.

In addition, the Navy proposes to issue awareness notification messages seasonally to alert ships and aircraft to the possible presence of concentrations of large whales in the PMSR Study Area. In order to maintain safety of navigation and to avoid interactions with large whales during transit, vessels will be instructed to remain vigilant to the presence of certain large whale species, which, especially when concentrated seasonally, may become vulnerable to

vessel strikes. Lookouts will use the information from the awareness notification messages to assist their visual observations of mitigation zones and to aid in implementing mitigation. The Navy anticipates that providing Lookouts additional information about the possible presence of concentrations of large whales in certain locations seasonally will likely help the Navy further avoid interactions with these animals during vessel transits and when training and testing activities are conducted in the PMSR Study Area. The Navy would follow reporting requirements should a vessel strike occur. The Navy would issue awareness notification messages (Table 30) for the following species and seasons.

TABLE 30—LARGE WHALE AWARENESS NOTIFICATION MESSAGES

Blue Whale Awareness Notification Message (June 1–October 31), Gray Whale Awareness Notification Message (November 1–March 31), and Fin Whale Awareness Notification Message (November 1–May 31): • The Navy will issue a seasonal awareness notification message to alert ships and aircraft operating in the area to the possible presence of concentrations of large whales, including blue whales (June 1 through October 31), gray whales (November 1 through March 31) and fin whales (November 1 through May 31). • To maintain safety of navigation and to avoid interactions with large whales during transits, the Navy will instruct vessels to remain vigilant to the presence of large whale species (including blue whales), that when concentrated seasonally, may become vulnerable to vessel strikes. • Lookouts will use the information from the awareness notification messages to assist their visual observation of applicable mitigation zones during testing and training activities and to aid in the implementation of mitigation observation of applicable mitigation zones during testing and training activities and to aid in the implementation of mitigation.

Mitigation Conclusions

NMFS has carefully evaluated the Navy's proposed mitigation measures—many of which were developed with NMFS' input during the previous phases of Navy training and testing authorizations—and considered a broad range of other measures (*i.e.,* the measures considered but eliminated in the 2020 PMSR DEIS/OEIS, which reflect many of the comments that have arisen via NMFS or public input in past years) in the context of ensuring that NMFS prescribes the means of effecting the least practicable adverse impact on the affected marine mammal species and their habitat. Our evaluation of potential measures included consideration of the following factors in relation to one another: The manner in which, and the degree to which, the successful implementation of the mitigation measures is expected to reduce the likelihood and/or magnitude of adverse impacts to marine mammal species and their habitat; the proven or likely efficacy of the measures; and the practicability of the measures for applicant implementation, including consideration of personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity.

Based on our evaluation of the Navy's proposed measures, as well as other measures considered by the Navy and NMFS, NMFS has preliminarily determined that these proposed mitigation measures are the appropriate means of effecting the least practicable adverse impact on the marine mammal species and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and considering specifically personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity. Additionally, an adaptive management provision ensures that mitigation is regularly assessed and provides a mechanism to improve the mitigation, based on the factors above, through modification as appropriate.

The proposed rule comment period provides the public an opportunity to submit recommendations, views, and/or concerns regarding the Navy's activities and the proposed mitigation measures. While NMFS has preliminarily determined that the Navy's proposed mitigation measures would effect the least practicable adverse impact on the affected species and their habitat, NMFS will consider all public comments to help inform our final determination. Consequently, the proposed mitigation measures may be refined, modified, removed, or added to prior to the issuance of the final rule, based on public comments received, and, as appropriate, analysis of additional potential mitigation measures.

Proposed Monitoring

Section 101(a)(5)(A) of the MMPA states that in order to authorize incidental take for an activity, NMFS must set forth requirements pertaining to the monitoring and reporting of such taking. The MMPA implementing regulations at 50 CFR 216.104(a)(13) indicate that requests for incidental take authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present.

In the PMSR, the Navy has been monitoring missile launches at SNI in accordance with the MMPA under IHAs or LOAs since 2001 (NMFS, 2014a, 2019a). Associated with those authorizations, monitoring reports submitted to NMFS in various periodic reports have included sound levels measurements from the launches and have documented the behavior of hauled out pinnipeds before, during, and after those launches by direct observation and in video recordings (Burke, 2017; Holst and Lawson, 2002; Holst and Greene Jr., 2005, 2006; Holst and Greene Jr., 2008; Holst and Greene Jr., 2010; Holst *et al.,* 2011; Holst *et al.,* 2003; Ugoretz and Greene Jr., 2012; Ugoretz, 2014, 2015, 2016).

In other locations where Navy testing and training activities occur, the Navy has also been conducting marine mammal research and monitoring in the Pacific Ocean for decades. A formal coordinated marine species monitoring program in support of the MMPA and ESA authorizations for the Navy Range Complexes worldwide was first implemented in 2009. This robust program has resulted in hundreds of technical reports and publications on marine mammals that have informed Navy and NMFS analyses in environmental planning documents, rules, and ESA Biological Opinions. The reports are made available to the public on the Navy's marine species monitoring website (*www.navymarinespecies monitoring.us*), and the data on the Ocean Biogeographic Information System Spatial Ecological Analysis of Megavertebrate Populations (OBIS–SEAMAP) (*http://seamap.env.duke.edu/*).

The Navy will continue collecting monitoring data to inform our understanding of the occurrence of, and impacts of the Navy's activities on, marine mammals on SNI in the PMSR Study Area. NMFS and the Navy will coordinate and discuss how monitoring in the PMSR Study Area could contribute to the Navy's Marine Species Monitoring Program. Taken together, mitigation and monitoring comprise the Navy's integrated approach for reducing environmental impacts from the specified activities. The Navy's overall monitoring approach seeks to leverage and build on existing research efforts whenever possible.

As agreed upon between the Navy and NMFS, the monitoring measures presented here, as well as the mitigation measures described above, focus on the protection and management of potentially affected marine mammals. A well-designed monitoring program can provide important feedback for validating assumptions made in analyses and allow for adaptive management of marine resources. Monitoring is required under the MMPA, and details of the monitoring program for the specified activities have been developed through coordination between NMFS and the Navy through the regulatory process for previous Navy at-sea training and testing activities.

Required Monitoring on SNI

In consultation with NMFS, the Navy shall implement a monitoring plan for beaches exposed to missile launch noise with the goal of assessing baseline pinniped distribution/abundance and potential changes in pinniped use of these beaches after launch events. Marine mammal monitoring shall include:

- Multiple surveys (*e.g.,* time-lapse photography) during the year that record the species, number of animals, general behavior, presence of pups, age class, gender and reactions to launch noise or other natural or human caused disturbances, in addition to environmental conditions that may include tide, wind speed, air temperature, and swell.
- In addition, video and acoustic monitoring of up to three pinniped haulout areas and rookeries must be conducted during launch events that include missiles or targets that have not been previously monitored using video and acoustic recorders for at least three launch events.

Integrated Comprehensive Monitoring Program (ICMP)

The Navy's ICMP is intended to coordinate marine species monitoring efforts across all regions and to allocate the most appropriate level and type of effort for each range complex based on a set of standardized objectives, and in acknowledgement of regional expertise and resource availability. The ICMP is designed to be flexible, scalable, and adaptable through the adaptive management and strategic planning processes to periodically assess progress and reevaluate objectives. This process includes conducting an annual adaptive management review meeting, at which the Navy and NMFS jointly consider the prior-year goals, monitoring results, and related scientific advances to determine if monitoring plan modifications are warranted to more effectively address program goals. Although the ICMP does not specify actual monitoring field work or individual projects, it does establish a matrix of goals and objectives that have been developed in coordination with NMFS. As the ICMP is implemented through the Strategic Planning Process for Marine Species Monitoring, detailed and specific studies are developed which support the Navy's and NMFS' top-level monitoring goals. In essence, the ICMP directs that monitoring activities relating to the effects of Navy training and testing activities on marine species should be designed to contribute towards one or more of the following top-level goals:

☐ An increase in our understanding of the likely occurrence of marine mammals and/or ESA-listed marine species in the vicinity of the action (*i.e.,* presence, abundance, distribution, and/or density of species);

☐ An increase in our understanding of the nature, scope, or context of the likely exposure of marine mammals and/or ESA-listed species to any of the potential stressor(s) associated with the action (*e.g.,* sound, explosive detonation, or military expended materials) through better understanding of the following: (1) The action and the environment in which it occurs (*e.g.,* sound source characterization, propagation, and ambient noise levels); (2) the affected species (*e.g.,* life history or dive patterns); (3) the likely co-occurrence of marine mammals and/or ESA-listed marine species with the action (in whole or part); and/or (4) the likely biological or behavioral context of exposure to the stressor for the marine mammal and/or ESA-listed marine species (*e.g.,* age class of exposed animals or known pupping, calving or feeding areas);

☐ An increase in our understanding of how individual marine mammals or ESA-listed marine species respond (behaviorally or physiologically) to the specific stressors associated with the action (in specific contexts, where possible, *e.g.,* at what distance or received level);

☐ An increase in our understanding of how anticipated individual responses, to individual stressors or anticipated combinations of stressors, may impact either: (1) The long-term fitness and survival of an individual or (2) the population, species, or stock (*e.g.,* through effects on annual rates of recruitment or survival);

☐ An increase in our understanding of the effectiveness of mitigation and monitoring measures;

☐ A better understanding and record of the manner in which the Navy complies with the incidental take regulations and LOAs and the ESA Incidental Take Statement;

☐ An increase in the probability of detecting marine mammals (through improved technology or methods), both specifically within the mitigation zone (thus allowing for more effective implementation of the mitigation), and in general, to better achieve the above goals; and

☐ Ensuring that adverse impact of activities remains at the least practicable level.

Strategic Planning Process for Marine Species Monitoring

The Navy also developed the Strategic Planning Process for Marine Species Monitoring, which establishes the guidelines and processes necessary to develop, evaluate, and fund individual projects based on objective scientific study questions. The process uses an underlying framework designed around intermediate scientific objectives and a conceptual framework incorporating a progression of knowledge spanning occurrence, exposure, response, and consequence. The Strategic Planning Process for Marine Species Monitoring is used to set overarching intermediate scientific objectives; develop individual monitoring project concepts; identify potential species of interest at a regional scale; evaluate, prioritize and select specific monitoring projects to fund or continue supporting for a given fiscal year; execute and manage selected monitoring projects; and report and evaluate progress and results. This process addresses relative investments to different range complexes based on goals across all range complexes, and monitoring will leverage multiple techniques for data acquisition and analysis whenever possible. The Strategic Planning Process for Marine Species Monitoring is also available online (*http://www.navymarinespeciesmonitoring.us/).*

NMFS and the Navy will coordinate and discuss how monitoring in the PMSR Study Area could contribute to the Navy's Marine Species Monitoring Program in addition to the monitoring that would be conducted on SNI.

Past and Current Monitoring in the PMSR Study Area

NMFS has received multiple years' worth of annual monitoring reports addressing launch activities on SNI within the PMSR Study Area and other Navy range complexes. The data and information contained in these reports have been considered in developing mitigation and monitoring measures for the training and testing activities on SNI within the PMSR Study Area. The Navy's annual exercise and monitoring reports may be viewed at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-military-readiness-activities* and *http://www.navymarinespeciesmonitoring.us.*

Numerous publications, dissertations, and conference presentations have resulted from research conducted under the Navy's marine species monitoring program (*https://www.navymarinespeciesmonitoring.us/reading-room/publications/*), resulting in a significant contribution to the body of marine mammal science. Publications on occurrence, distribution, and density have fed the modeling input, and publications on exposure and response have informed Navy and NMFS analyses of behavioral response and consideration of mitigation measures.

Furthermore, collaboration between the monitoring program and the Navy's research and development (*e.g.,* the Office of Naval Research) and demonstration-validation (*e.g.,* Living Marine Resources) programs has been strengthened, leading to research tools and products that have already transitioned to the monitoring program. These include Marine Mammal Monitoring on Ranges (M3R), controlled exposure experiment behavioral response studies (CEE BRS), acoustic sea glider surveys, and global positioning system-enabled satellite tags. Recent progress has been made with better integration of monitoring across all Navy at-sea study areas, including study areas in the Pacific and the Atlantic Oceans, and various testing ranges. Publications from the Living Marine Resources and the Office of Naval Research programs have also resulted in significant contributions to information on hearing ranges and acoustic criteria used in effects modeling, exposure, and response, as well as developing tools to assess biological significance (*e.g.,* population-level consequences).

NMFS and the Navy also consider data collected during mitigations as monitoring. Data are collected by shipboard personnel on hours spent training, hours of observation, and marine mammals observed within the mitigation zones when mitigations are implemented. These data are provided to NMFS in both classified and unclassified annual exercise reports, which will continue under this rule.

Research funded by the Navy that has included the PMSR Study Area includes, but is not limited to the following efforts:

- The Navy has funded a number of passive acoustic monitoring efforts in the PMSR Study Area as well as locations farther to the south in the SOCAL Range Complex. These studies have helped to characterize the soundscape resulting from general anthropogenic sound as well as the Navy testing and training sound energy contributions (Baumann-Pickering *et al.,* 2013; Baumann-Pickering *et al.,* 2015a; Baumann-Pickering *et al.,* 2018; Curtis *et al.,* 2020; Debich *et al.,* 2015a; Debich *et al.,* 2015b; Hildebrand *et al.,* 2012; Rice *et al.,* 2018a; Rice *et al.,* 2017; Rice *et al.,* 2018b; Sirovic *et al.,* 2016; Sirovic *et al.,* 2017; Sirovic *et al.,* 2015b; Wiggins *et al.,* 2018).
- Fieldwork involving photo-ID, biopsy, visual survey, and satellite tagging of blue, fin, and humpback whales were undertaken by Oregon State University. This research provided seasonal movement tracks, distribution, and behavior of these species in addition to biopsy samples used for sex determination and individual identifications (Mate *et al.,* 2016; Mate *et al.,* 2018b, 2018c; Mate *et al.,* 2015b). The findings from this work have been instrumental in supplementing our understanding of the use of BIAs in the PMSR Study Area for these species.
- The Navy has been collecting abundance data and behavioral reactions of pinnipeds during target and missile launch on SNI since 2001. The marine mammals monitoring reports for SNI can be found here *https://www.navymarinespeciesmonitoring.us/reporting/pacific/.*

Additional details on the scientific objectives for the Navy's marine species monitoring program in the Pacific (and elsewhere) can be found at *https://www.navymarinespeciesmonitoring.us/regions/pacific/current-projects/.* Projects can be either major multi-year efforts, or one to two-year special studies.

The majority of the testing and training activities Navy is proposing for the foreseeable future in the PMSR Study Area are similar if not nearly identical to activities that have been occurring in the same locations for decades. In the PMSR Study Area, there are no Major Exercises, testing and training events are, by comparison to other Navy areas, less frequent and are in general small in scope, so as a result the majority of Navy's research effort has been focused elsewhere. For this reason, the vast majority of scientific fieldwork, research, and monitoring efforts have been expended in the SOCAL Range Complex and Hawaii, where Navy training and testing activities have been more concentrated. Since 2006, the Navy has been submitting exercise reports and monitoring reports to NMFS for the Navy's range complexes in the Pacific and the Atlantic. These publicly available exercise reports, monitoring reports, and the associated research findings have been integrated into adaptive management decisions regarding the focus for subsequent research and monitoring as determined in collaborations between Navy, NMFS, Marine Mammal Commission, and other marine resource subject matter experts using an adaptive management approach. For example, see the 2019 U.S. Navy Annual Marine Species Monitoring Report for the Pacific that was made available to the public in September 2020.

Adaptive Management

The proposed regulations governing the take of marine mammals incidental to Navy training and testing activities in the PMSR Study Area contain an adaptive management component. Our understanding of the effects of Navy training and testing activities on marine mammals continues to evolve, which makes the inclusion of an adaptive management component both valuable and necessary within the context of seven-year regulations.

The reporting requirements associated with this proposed rule are designed to provide NMFS with monitoring data from the previous year to allow NMFS to consider whether any changes to existing mitigation and monitoring requirements are appropriate. The use of adaptive management allows NMFS to consider new information from different sources to determine (with input from the Navy regarding practicability) on an annual or biennial basis if mitigation or monitoring measures should be modified (including additions or deletions). Mitigation or monitoring measures could be modified if new data suggests that such modifications will have a reasonable likelihood of more

effectively accomplishing the goals of the mitigation and monitoring and if the measures are practicable. If the modifications to the mitigation, monitoring, or reporting measures are substantial, NMFS will publish a notice of the proposed LOA in the **Federal Register** and solicit public comment.

The following are some of the possible sources of applicable data to be considered through the adaptive management process: (1) Results from monitoring and exercises reports, as required by MMPA authorizations; (2) results from specific stranding investigations; (3) results from general marine mammal and sound research; and (4) any information which reveals that marine mammals may have been taken in a manner, extent, or number not authorized by these regulations or subsequent LOA. The results from monitoring reports and other studies may be viewed at *https://www.navymarinespeciesmonitoring.us.*

Proposed Reporting

In order to issue incidental take authorization for an activity, section 101(a)(5)(A) of the MMPA states that NMFS must set forth requirements pertaining to the monitoring and reporting of such taking. Effective reporting is critical both to compliance as well as ensuring that the most value is obtained from the required monitoring. Reports from individual monitoring events, results of analyses, publications, and periodic progress reports for specific monitoring projects will be posted to the Navy's Marine Species Monitoring web portal: *http://www.navymarinespeciesmonitoring.us.*

Notification of Injured, Live Stranded or Dead Marine Mammals

The Navy will consult the Notification and Reporting Plan, which sets out notification, reporting, and other requirements when injured, live stranded, or dead marine mammals are detected. The Notification and Reporting Plan is available at *https://www.fisheries.noaa.gov/action/incidental-take-authorization-us-navy-testing-and-training-activities-point-mugu-sea-range.*

Annual SNI Monitoring Report

The Navy would submit an annual report to NMFS of the SNI rocket and missile launch activities. The draft annual monitoring report must be submitted to the Director, Office of Protected Resources, NMFS, within three months after the end of the reporting year. NMFS will submit comments or questions on the draft monitoring report, if any, within three months of receipt. The report will be considered final after the Navy has addressed NMFS' comments, or three months after the submission of the draft if NMFS does not provide comments on the draft report. The report would summarize the launch events conducted during the year; assess any direct impacts to pinnipeds from launch events; assess any cumulative impacts on pinnipeds from launch events; and summarize pinniped monitoring and research activities conducted on SNI and any findings related to effects of launch noise on pinniped populations.

Annual PMSR Training and Testing Exercise Report

Each year the Navy will submit a detailed report (Annual PMSR Training and Testing Activity Report) to NMFS within three months after the one-year anniversary of the date of issuance of the LOA. NMFS will submit comments or questions on the report, if any, within one month of receipt. The report will be considered final after the Navy has addressed NMFS' comments, or one month after submission of the draft if NMFS does not provide comments on the draft report. The annual report will contain information on all explosives used, total annual number of each type of explosive exercises; and total annual expended/detonated rounds (missiles, bombs etc.) for each explosive bin. The annual report will also specifically include information on sound sources used. The annual report will also contain the current year's explosive use data as well as the cumulative sonar and explosive use quantity from previous years' reports. Additionally, if there were any changes to the explosives allowance in the reporting year or cumulatively, the report will include a discussion of why the change was made and include analysis to support how the change did or did not affect the analysis in the 2021 PMSR FEIS/OEIS and MMPA final rule. See the regulatory text below for detail on the content of the annual report.

The final annual/close-out report at the conclusion of the authorization period (year seven) will also serve as the comprehensive close-out report, and will include both the final year annual use compared to annual authorization and a cumulative seven-year annual use compared to seven-year authorization. NMFS must submit comments on the draft close-out report, if any, within three months of receipt. The report will be considered final after the Navy has addressed NMFS' comments, or three months after the submission of the draft if NMFS does not provide comments.

Information included in the annual reports may be used to inform future adaptive management of activities within the PMSR Study Area.

Other Reporting and Coordination

The Navy will continue to report and coordinate with NMFS for the following:

- Annual marine species monitoring technical review meetings that also include researchers and the Marine Mammal Commission. Every two years a joint Pacific-Atlantic meeting is held); and
- Annual Adaptive Management meetings that also include the Marine Mammal Commission (recently modified to occur in conjunction with the annual monitoring technical review meeting).

Preliminary Analysis and Negligible Impact Determination

General Negligible Impact Analysis

Introduction

NMFS has defined negligible impact as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival (*i.e.,* population-level effects) (50 CFR 216.103). An estimate of the number of takes alone is not enough information on which to base an impact determination. In considering how Level A harassment or Level B harassment factor into the negligible impact analysis, in addition to considering the number of estimated takes, NMFS considers other factors, such as the likely nature of any responses (*e.g.,* intensity, duration), the context of any responses (*e.g.,* critical reproductive time or location, migration), as well as effects on habitat, and the likely effectiveness of the mitigation. Consistent with the 1989 preamble for NMFS' implementing regulations (54 FR 40338; September 29, 1989), the impacts from other past and ongoing anthropogenic activities are incorporated into this analysis via their impacts on the baseline (*e.g.,* as reflected in the regulatory status of the species, population size and growth rate where known).

In the *Estimated Take of Marine Mammals* section of this proposed rule, we identified the subset of potential effects that are reasonably expected to occur and rise to the level of takes based on the methods described. The impact that any given take will have on an individual, and ultimately the species or stock, is dependent on many case-

specific factors that need to be considered in the negligible impact analysis (*e.g.,* the context of behavioral exposures such as duration or intensity of a disturbance, the health of impacted animals, the status of a species that incurs fitness-level impacts to individuals, etc.). For this proposed rule, we evaluated the likely impacts of the number of harassment takes reasonably expected to occur, and proposed for authorization, in the context of the specific circumstances surrounding these predicted takes. Last, we collectively evaluated this information, as well as other more taxa-specific information and mitigation measure effectiveness, in group-specific assessments that support our negligible impact conclusions for each species and stock.

As explained in the *Estimated Take of Marine Mammals* section, no take by serious injury or mortality is proposed for authorization or anticipated to occur.

The Specified Activities reflect maximum levels of training and testing activities. The *Description of the Specified Activity* section describes annual activities. There may be some flexibility in the exact number of detonations that may vary from year to year, but take totals will not exceed the seven-year totals indicated in Table 18 as well as take annual and seven-year totals described for missile launch activities on SNI in Table 19. We base our analysis and negligible impact determination on the maximum number of takes that are reasonably expected to occur and proposed for authorization, although, as stated before, the number of takes are only a part of the analysis, which includes qualitative consideration of other contextual factors that influence the degree of impact of the takes on the affected individuals. To avoid repetition, we provide some general analysis in this *General Negligible Impact Analysis* section that applies to all the species and stocks listed in Tables 18 and 19, given that some of the anticipated effects of the Navy's training and testing activities on marine mammals are expected to be relatively similar in nature. Then, in the *Group and Species-Specific Analyses* section, we subdivide into discussions of Mysticetes, Odontocetes, and Pinnipeds as there are broad life history traits that support an overarching discussion of some factors considered within the analysis for those groups (*e.g.,* high-level differences in feeding strategies). Last, we break our analysis into species and stock, or groups of species where relevant similarities exist, to provide more specific information related to the anticipated effects on individuals of that species or where there is information about the status or structure of any species that would lead to a differing assessment of the effects on the species. Organizing our analysis by grouping species that share common traits or that will respond similarly to effects of the Navy's activities and then providing species-specific information allows us to avoid duplication while assuring that we have analyzed the effects of the specified activities on each affected species and stock.

The Navy's take request, which, as described above, is for harassment only, is based on its acoustic model. The model calculates sound energy propagation from explosives during naval activities; the sound or impulse received by animat dosimeters representing marine mammals distributed in the area around the modeled activity; and whether the sound or impulse energy received by a marine mammal exceeds the thresholds for effects. Assumptions in the Navy model intentionally err on the side of overestimation when there are unknowns. Naval activities are modeled as though they would occur regardless of proximity to marine mammals, meaning that no mitigation is considered and without any avoidance of the activity by the animal. NMFS provided input to, independently reviewed, and concurred with the Navy on this process and the Navy's analysis, which is described in detail in Section 6 of the Navy's rulemaking/LOA application, and which was used to quantify harassment takes for this proposed rule.

Generally speaking, the Navy and NMFS anticipate more severe effects from takes resulting from exposure to higher received levels (though this is in no way a strictly linear relationship for behavioral effects throughout species, individuals, or circumstances), and less severe effects from takes resulting from exposure to lower received levels. However, there is also growing evidence of the importance of distance in predicting marine mammal behavioral response to sound—*i.e.,* sounds of a similar level emanating from a more distant source have been shown to be less likely to evoke a response of equal magnitude (DeRuiter 2012, Falcone *et al.* 2017). The estimated number of Level A harassment and Level B harassment takes does not equate to the number of individual animals the Navy expects to harass (which is lower), but rather to the instances of take (*i.e.,* exposures above the Level A harassment and Level B harassment threshold) that are anticipated to occur annually and over the seven-year period. These instances may represent either brief exposures (seconds) or, in some cases, several exposures within a day. Most explosives detonating at or near the surface, especially those involving the larger explosive bins such as a MISSILEX, have brief exposures lasting only a few milliseconds to minutes for the entire event. Explosive events may be a single event involving one explosion (single exposure) or a series of intermittent explosives (multiple explosives) occurring over the course of a day. Gunnery events, in some cases, may have longer durations of exposure to intermittent sound. In general, gunnery events can last intermittently over 1–3 hrs in total; however the actual exposure during the event would be of a much shorter duration (seconds to minutes).

Behavioral Response

Behavioral reactions from explosive sounds are likely to be similar to reactions studied for other impulsive sounds such as those produced by air guns. Impulsive signals, particularly at close range, have a rapid rise time and higher instantaneous peak pressure than other signal types, making them more likely to cause startle responses or avoidance responses. Most data has come from seismic surveys that occur over long durations (*e.g.,* on the order of days to weeks), and typically utilize large multi-air gun arrays that fire repeatedly. While seismic air gun data provides the best available science for assessing behavioral responses to impulsive sounds (*i.e.,* sounds from explosives) by marine mammals, it is likely that these responses represent a worst-case scenario compared to most Navy explosive noise sources. There are no explosives proposed to detonate underwater, only those that detonate at or near the surface of the water. For explosives detonating at or near the surface, an animal is considered exposed to a sound if the received sound level at the animal's location is above the background ambient noise level within a similar frequency band. For launches of targets and missiles from SNI, years of monitoring have demonstrated that sound levels at the nearest pinniped haulout site would produce short-term, localized changes in behavior, including temporarily vacating haul-outs.

As described in the Navy's application, the Navy identified (with NMFS' input) the types of behaviors that would be considered a take (moderate behavioral responses as characterized in Southall *et al.* (2007) (*e.g.,* altered migration paths or dive profiles, interrupted nursing, breeding

or feeding, or avoidance) that also would be expected to continue for the duration of an exposure). The Navy then compiled the available data indicating the received sound levels and distances from the sources when those responses have occurred to predict how many instances of Level B harassment by behavioral disturbance occur in a day. Take estimates alone do not provide information regarding the potential fitness or other biological consequences of the reactions on the affected individuals. NMFS therefore considers the available activity-specific, environmental, and species-specific information to determine the likely nature of the modeled behavioral responses and the potential fitness consequences for affected individuals.

In the range of potential behavioral effects that might be expected to be part of a response that qualifies as an instance of Level B harassment by behavioral disturbance (which by nature of the way it is modeled/counted, occurs within one day), the less severe end might include exposure to comparatively lower levels of a sound, at a detectably greater distance from the animal, for a few or several minutes. A less severe exposure of this nature could result in a behavioral response such as avoiding an area that an animal would otherwise have chosen to move through or feed in for some amount of time or breaking off one or a few feeding bouts. More severe effects could occur when the animal gets close enough to the source to receive a comparatively higher level, or is exposed intermittently to different sources throughout a day. Such effects might result in an animal having a more severe flight response and leaving a larger area for a day or more or potentially losing feeding opportunities for a day. However, such severe behavioral effects are expected to occur infrequently.

The majority of Level B harassment takes are expected to be in the form of milder responses (*i.e.,* lower-level exposures that still rise to the level of take) of a generally shorter duration. We anticipate more severe effects from takes when animals are exposed to higher received levels or at closer proximity to the source. However, depending on the context of an exposure (*e.g.,* depth, distance, if an animal is engaged in important behavior such as feeding), a behavioral response can vary across species and individuals within a species. Specifically, given a range of behavioral responses that may be classified as Level B harassment, to the degree that higher received levels are expected to result in more severe behavioral responses, only a smaller percentage of the anticipated Level B harassment from Navy activities would be expected to potentially result in more severe responses (see the *Group and Species-Specific Analyses* section below for more detailed information). To fully understand the likely impacts of the predicted/authorized take on an individual (*i.e.,* what is the likelihood or degree of fitness impacts), one must look closely at the available contextual information, such as the duration of likely exposures and the likely severity of the exposures (*e.g.,* whether they will occur for a longer duration over sequential days or the comparative sound level that will be received). Ellison *et al.* (2012) and Moore and Barlow (2013), among others, emphasize the importance of context (*e.g.,* behavioral state of the animals, distance from the sound source) in evaluating behavioral responses of marine mammals to acoustic sources.

Diel Cycle

Many animals perform vital functions, such as feeding, resting, traveling, and socializing on a diel cycle (24-hour cycle). Behavioral reactions to noise exposure, when taking place in a biologically important context, such as disruption of critical life functions, displacement, or avoidance of important habitat, are more likely to be significant if they last more than one diel cycle or recur on subsequent days (Southall *et al.,* 2007). For example, Henderson *et al.* (2016) found that ongoing smaller scale events had little to no impact on foraging dives for Blainville's beaked whale, while multi-day training events may decrease foraging behavior for Blainville's beaked whale (Manzano-Roth *et al.,* 2016). There are very few multi-day training events proposed for PMSR.

Durations of Navy activities utilizing explosives vary and are fully described in Appendix A (*PMSR Scenarios Descriptions*) of the 2020 PMSR DEIS/OEIS. The PMSR has activity occurring daily, but tests range from just a single missile launch or multiple launches, or may only be a captive carry where no munitions are air launched but the test is to determine the aircraft's ability to function properly with a missile on board, to a single or dual target launch from SNI, or a CSSQT where the ship's capability is tested by how it performs with a multiple weapons systems against a target. Also, while some tests are planned well in advance, some portions of or the entire test may be cancelled due to weather or atmospheric conditions, sea state, a particular system or support infrastructure dysfunction, or many other factors. Most proposed explosive detonation events are scheduled to occur over a short duration (one to a few hours); however, the explosive detonation component of the activity only lasts for seconds. Although explosive detonation events may sometimes be conducted in the same general areas repeatedly, because of their short duration and the fact that they are in the open ocean and animals can easily move away, it is similarly unlikely that animals would be exposed for long, continuous amounts of time, or demonstrate sustained behavioral responses. All of these factors make it unlikely that individuals would be exposed to the exercise for extended periods or on consecutive days.

Assessing the Number of Individuals Taken and the Likelihood of Repeated Takes

As described previously, Navy modeling uses the best available science to predict the instances of exposure above certain acoustic thresholds, which are quantified as harassment takes. However, these numbers from the model do not identify whether and when the enumerated instances occur to the same individual marine mammal on different days, or how any such repeated takes may impact those individuals. One method that NMFS can use to help better understand the overall scope of the impacts is to compare the total instances of take against the abundance of that species (or stock if applicable). For example, if there are 100 estimated harassment takes in a population of 100, one can assume either that every individual will be exposed above acoustic thresholds in no more than one day, or that some smaller number will be exposed in one day but a few individuals will be exposed multiple days within a year and a few not exposed at all. However, in this proposed rule the percentage of takes relative to abundance is under five percent for all species and in most cases less than one percent, meaning that it is less likely that individuals of most species will be taken multiple times, although we note that pinnipeds that haul out regularly in areas where activities are regularly conducted are more likely to be taken on multiple days.

Temporary Threshold Shift

NMFS and the Navy have estimated that some species and stocks of marine mammals may sustain some level of TTS from explosive detonations. In general, TTS can last from a few minutes to days, be of varying degree, and occur across various frequency bandwidths, all of which determine the

severity of the impacts on the affected individual, which can range from minor to more severe. Explosives are generally referenced as broadband because of the various frequencies. Table 31 indicates the number of takes by TTS that may be incurred by different species from exposure to explosives. The TTS sustained by an animal is primarily classified by three characteristics:

1. Frequency—Available data (of mid-frequency hearing specialists exposed to mid- or high-frequency sounds; Southall *et al.,* 2007) suggest that most TTS occurs in the frequency range of the source up to one octave higher than the source (with the maximum TTS at ½ octave above). TTS from explosives would be broadband.

2. Degree of the shift (*i.e.,* by how many dB the sensitivity of the hearing is reduced)—Generally, both the degree of TTS and the duration of TTS will be greater if the marine mammal is exposed to a higher level of energy (which would occur when the peak dB level is higher or the duration is longer). The threshold for the onset of TTS was discussed previously in this proposed rule. An animal would have to approach closer to the source or remain in the vicinity of the sound source appreciably longer to increase the received SEL. The sound resulting from an explosive detonation is considered an impulsive sound and shares important qualities (*i.e.,* short duration and fast rise time) with other impulsive sounds such as those produced by air guns. Given the anticipated duration and levels of sound exposure, we would not expect marine mammals to incur more than relatively low levels of TTS (*i.e.,* single digits of sensitivity loss).

3. Duration of TTS (recovery time)—In the TTS laboratory studies (as discussed in the *Potential Effects of Specified Activities on Marine Mammals and their Habitat* section of the proposed rule), some using exposures of almost an hour in duration or up to 217 SEL, almost all individuals recovered within 1 day (or less, often in minutes), although in one study (Finneran *et al.,* 2007) recovery took 4 days. For the same reasons discussed in the Preliminary Analysis and Negligible Impact Determination—*Diel Cycle* section, and because of the short distance animals would need to be from the sound source, it is unlikely that animals would be exposed to the levels necessary to induce TTS in subsequent time periods such that their recovery is impeded.

The TTS takes would be the result of exposure to explosive detonations (broad-band). As described above, we expect the majority of these takes to be in the form of mild (single-digit), short-term (minutes to hours) TTS. This means that for one time a year, for several minutes, a taken individual will have slightly diminished hearing sensitivity (slightly more than natural variation, but nowhere near total deafness). The expected results of any one of these small number of mild TTS occurrences could be that (1) it does not overlap signals that are pertinent to that animal in the given time period, (2) it overlaps parts of signals that are important to the animal, but not in a manner that impairs interpretation, or (3) it reduces detectability of an important signal to a small degree for a short amount of time—in which case the animal may be aware and be able to compensate (but there may be slight energetic cost), or the animal may have some reduced opportunities (*e.g.,* to detect prey) or reduced capabilities to react with maximum effectiveness (*e.g.,* to detect a predator or navigate optimally). However, given the small number of times that any individual might incur TTS, the low degree of TTS and the short anticipated duration, and the low likelihood that one of these instances would occur across a time period in which the specific TTS overlapped the entirety of a critical signal, it is unlikely that TTS of the nature expected to result from the Navy activities would result in behavioral changes or other impacts that would impact any individual's (of any hearing sensitivity) reproduction or survival.

Auditory Masking or Communication Impairment

The ultimate potential impacts of masking on an individual (if it were to occur) are similar to those discussed for TTS, but an important difference is that masking only occurs during the time of the signal, versus TTS, which continues beyond the duration of the signal. Fundamentally, masking is referred to as a chronic effect because one of the key potential harmful components of masking is its duration—the fact that an animal would have reduced ability to hear or interpret critical cues becomes much more likely to cause a problem the longer it is occurring. Also inherent in the concept of masking is the fact that the potential for the effect is only present during the times that the animal and the source are in close enough proximity for the effect to occur (and further, this time period would need to coincide with a time that the animal was utilizing sounds at the masked frequency). As our analysis has indicated, because of the sound sources primarily involved in this rule, we do not expect the exposures with the potential for masking to be of a long duration. Masking is fundamentally more of a concern at lower frequencies, because low frequency signals propagate significantly further than higher frequencies and because they are more likely to overlap both the narrower low-frequency calls of mysticetes, as well as many non-communication cues, such as sounds from fish and invertebrate prey and geologic sounds that inform navigation. Masking is also more of a concern from continuous sources (versus intermittent) where there is no quiet time between a sound source within which auditory signals can be detected and interpreted. Explosions introduce low-frequency, broadband sounds into the environment, which could momentarily mask hearing thresholds in animals that are nearby, although sounds from explosions last for only a few seconds at most. Masking due to these short duration detonations would not be significant. Activities that have multiple, repeated detonations, such as some naval gunfire activities, could result in masking for mysticetes near the target impact area over the duration of the event. Effects of masking are only present when the sound from the explosion is present, and the effect is over the moment the sound is no longer detectable. Therefore, short-term exposure to the predominantly intermittent explosions are not expected to result in a meaningful amount of masking. For the reasons described here, any limited masking that could potentially occur from explosives would be minor and short-term and intermittent. Long-term consequences from physiological stress due to the sound of explosives would not be expected. In conclusion, masking is more likely to occur in the presence of broadband, relatively continuous noise sources such as from vessels; however, the duration of temporal and spatial overlap with any individual animal and the spatially separated sources that the Navy uses would not be expected to result in more than short-term, low impact masking that would not affect reproduction or survival of individuals.

Auditory Injury (Permanent Threshold Shift)

Table 31 indicates the number of individuals of each species for which Level A harassment in the form of PTS resulting from exposure to or explosives is estimated to occur. The number of individuals to potentially incur PTS annually (from explosives) for each species ranges from 0 to 49 (49 is for Dall's porpoise), but is more typically 0 or 1. As described previously, no

species are expected to incur non-auditory injury from explosives.

As discussed previously, the Navy utilizes aerial monitoring in addition to Lookouts on vessels to detect marine mammals for mitigation implementation. These Level A harassment take numbers represent the maximum number of instances in which marine mammals would be reasonably expected to incur PTS, and we have analyzed them accordingly. In relation to TTS, the likely consequences to the health of an individual that incurs PTS can range from mild to more serious depending upon the degree of PTS and the frequency band it is in. Any PTS accrued as a result of exposure to Navy activities would be expected to be of a small amount. Permanent loss of some degree of hearing is a normal occurrence for older animals, and many animals are able to compensate for the shift, both in old age or at younger ages as the result of stressor exposure (Green *et al.,* 1987; Houser *et al.,* 2008; Ketten 2012; Mann *et al.,* 2010; McGfown *et al.,* 2020). While a small loss of hearing sensitivity may include some degree of energetic costs for compensating or may mean some small loss of opportunities or detection capabilities, at the expected scale it would be unlikely to impact behaviors, opportunities, or detection capabilities to a degree that would interfere with reproductive success or survival of any individuals.

Physiological Stress Response

Some of the lower level physiological stress responses (*e.g.,* orientation or startle response, change in respiration, change in heart rate) discussed in the Potential Effects of Specified Activities on Marine Mammals and their Habitat would likely co-occur with the predicted harassments, although these responses are more difficult to detect and fewer data exist relating these responses to specific received levels of sound. However, we would not expect the Navy's generally short-term and intermittent activities to create conditions of long-term, continuous noise leading to long-term physiological stress responses in marine mammals that could affect reproduction or survival.

Group and Species-Specific Analyses

In this section, we build on the general analysis that applies to all marine mammals in the PMSR Study Area from the previous section, and include first information and analysis that applies to mysticetes or, separately, odontocetes, and pinnipeds and then within those three sections, more specific information that applies to smaller groups, where applicable, and the affected species and stocks. The specific take numbers proposed for authorization are discussed in Tables 31 and 32, and here we provide some additional context and discussion regarding how we consider the proposed take numbers in those analyses. The maximum amount and type of incidental take of marine mammals reasonably likely to occur from explosive detonations and target and missile launch activities and therefore authorized during the seven-year training and testing period are shown in Tables 31 and 32 below. The vast majority of predicted exposures are expected to be Level B harassment (TTS and behavioral disturbance) from explosive sources during training and testing activities and missile launch activities on SNI.

TABLE 31— ANNUAL ESTIMATED TAKES BY LEVEL A AND LEVEL B HARASSMENT FOR MARINE MAMMALS IN THE PMSR STUDY AREA (EXCLUDING SNI) AND THE NUMBER INDICATING THE INSTANCES OF TOTAL TAKE AS A PERCENTAGE OF STOCK ABUNDANCE

Common name	Stock/DPS	Proposed annual take by Level A and Level B harassment			Total take	Abundance (2020 draft SARS)	Percent taken by abundance
		Behavioral response	TTS	PTS			
Blue whale *	Eastern North Pacific.	7	4	0	11	1,496	0.74
Fin whale *	California, Oregon, and Washington.	14	7	1	22	9,029	0.24
Gray whale	Eastern North Pacific.	9	5	0	14	26,960	0.05
Humpback whale *	California, Oregon, and Washington/ Mexico DPS.	7	4	0	11	2,900	0.38
	California, Oregon, and Washington/ Central America DPS.	1	0	0	1	2,900	0.03
Minke whale	California, Oregon, and Washington.	2	1	0	3	636	0.47
Bottlenose dolphin	California, Oregon, and Washington Offshore.	5	5	1	11	1924	0.57
Dall's porpoise	California, Oregon, and Washington.	261	406	49	716	25,750	2.78
Dwarf sperm whale	California, Oregon, and Washington.	20	31	6	57	4,111	1.39
Long-beaked common dolphin.	California	66	44	9	119	101,305	0.12
Northern right whale dolphin.	California, Oregon, and Washington.	3	2	1	6	26,556	0.02
Pacific white-sided dolphin.	California, Oregon, and Washington.	11	8	2	21	26,814	0.08
Pygmy sperm whale.	California, Oregon, and Washington.	20	31	6	57	4,111	1.39

TABLE 31— ANNUAL ESTIMATED TAKES BY LEVEL A AND LEVEL B HARASSMENT FOR MARINE MAMMALS IN THE PMSR STUDY AREA (EXCLUDING SNI) AND THE NUMBER INDICATING THE INSTANCES OF TOTAL TAKE AS A PERCENTAGE OF STOCK ABUNDANCE—Continued

Common name	Stock/DPS	Proposed annual take by Level A and Level B harassment			Total take	Abundance (2020 draft SARS)	Percent taken by abundance
		Behavioral response	TTS	PTS			
Risso's dolphins	California, Oregon, and Washington.	6	3	1	10	6,336	0.16
Short-beaked common dolphin.	California, Oregon, and Washington.	90	65	15	170	969,861	0.02
Sperm whale*	California, Oregon, and Washington.	1	1	0	2	1,997	0.10
Striped dolphin	California, Oregon, and Washington.	1	1	0	2	29,211	0.01
Harbor seal	California	202	120	14	336	30,968	1.08
Northern elephant seal.	California	37	63	22	122	179,000	0.07
California sea lion	U.S. Stock	8	12	2	22	257,606	0.01
Guadalupe fur seal*.	Mexico to California.	1	1	0	2	34,187	0.01

Note: Percentages taken by abundance may be less for some stocks as the abundance would be less in the PMSR Study Area depending on the range of a particular stock.

*ESA-listed species in PMSR Study Area.

TABLE 32—ANNUAL ESTIMATED TAKES BY LEVEL A AND LEVEL B HARASSMENT FOR PINNIPED ON SNI AND THE NUMBER INDICATING THE INSTANCES OF TOTAL TAKE AS A PERCENTAGE OF STOCK ABUNDANCE

Species	Stock	Proposed annual take by Level B harassment	Abundance (2020 draft SARS)	Percent taken by abundance	Proposed 7-year total take by Level B harassment
California sea lion	U.S.	11,000	257,606	4.27	77,000
Harbor seal	California	480	30,968	1.55	3,360
Northern elephant seal	California	40	179,000	0.02	280

In the discussions below, the estimated takes by Level B harassment represent instances of take, not the number of individuals taken (the much lower and less frequent takes by Level A harassment are far more likely to be associated with separate individuals). The total take numbers (by any method of taking) for species are compared to their associated abundance estimates to evaluate the magnitude of impacts across the species and to individuals. Abundance percentage comparisons are less than three percent for all species and stocks and nearly all are one percent or less and zero in many cases for explosives and less than five percent for all species on SNI from target and missile launch activities. This means that: (1) Not all of the individuals will be taken, and many will not be taken at all; (2) barring specific circumstances suggesting repeated takes of individuals (such as in circumstances where all activities resulting in take are focused in one area and time where the same individual marine mammals are known to congregate, such as pinnipeds on SNI), the average or expected number of days taken for those individuals taken is one per year; and (3) we would not expect any individuals to be taken more than a few times in a year, or for those days to be sequential.

To assist in understanding what this analysis means, we clarify a few issues related to estimated takes and the analysis here. An individual that incurs PTS or TTS may sometimes, for example, also be subject to direct behavioral disturbance at the same time. As described above in this section, the degree of PTS, and the degree and duration of TTS, expected to be incurred from the Navy's activities are not expected to impact marine mammals such that their reproduction or survival could be affected. Similarly, data do not suggest that a single instance in which an animal incurs PTS or TTS and also has an additional direct behavioral response would result in impacts to reproduction or survival. Accordingly, in analyzing the numbers of takes and the likelihood of repeated and sequential takes, we consider all the types of take, so that individuals potentially experiencing both threshold shift and direct behavioral responses are appropriately considered. The number of Level A harassment takes by PTS are so low (and zero in most cases) compared to abundance numbers that it is considered highly unlikely that any individual would be taken at those levels more than once.

On the less severe end, exposure to comparatively lower levels of sound at a detectably greater distance from the animal, for a few or several minutes, could result in a behavioral response such as avoiding an area that an animal would otherwise have moved through or fed in, or breaking off one or a few feeding bouts. More severe behavioral effects could occur when an animal gets close enough to the source to receive a comparatively higher level of sound, is exposed continuously to one source for a longer time, or is exposed intermittently to different sources throughout a day. Such effects might result in an animal having a more severe flight response and leaving a larger area for a day or more, or potentially losing feeding opportunities for a day. However, such severe behavioral effects are not expected to occur.

Occasional, milder behavioral reactions are unlikely to cause long-term

consequences for individual animals or populations, and even if some smaller subset of the takes are in the form of a longer (several hours or a day) and more severe responses, if they are not expected to be repeated over sequential days, impacts to individual fitness are not anticipated. Nearly all studies and experts agree that infrequent exposures of a single day or less are unlikely to impact an individual's overall energy budget (Farmer *et al.,* 2018; Harris e*t al.,* 2017; King *et al.,* 2015; NAS 2017; New *et al.,* 2014; Southall *et al.,* 2007; Villegas-Amtmann *et al.,* 2015).

The analyses below in some cases address species and stocks collectively if they occupy the same functional hearing group (*i.e.,* low, mid, and high-frequency cetaceans and pinnipeds), share similar life history strategies, and/or are known to behaviorally respond similarly to stressors. Because some of these groups or species share characteristics that inform the impact analysis similarly, it would be duplicative to repeat the same analysis for each species. In addition, similar species typically have the same hearing capabilities and behaviorally respond in the same manner.

Thus, our analysis below considers the effects of the Navy's activities on each affected species even where discussion is organized by functional hearing group and/or information is evaluated at the group level. Where there are meaningful differences between species that would further differentiate the analysis, they are either described within the section or the discussion for those species is included as a separate subsection. Specifically, below we first give broad descriptions of the mysticete, odontocete, and pinniped groups and then differentiate into further groups and species as appropriate.

Mysticetes

This section builds on the broader discussion above and brings together the discussion of the different types and amounts of take that different species are likely to incur, the applicable mitigation, and the status of the species to support the negligible impact determinations for each species. We have described (above in the *General Negligible Impact Analysis* section) the unlikelihood of any masking having effects that would impact the reproduction or survival of any of the individual marine mammals affected by the Navy's activities. We also described in the *Potential Effects of Specified Activities on Marine Mammals and their Habitat* section of the proposed rule the unlikelihood of any habitat impacts having effects that would impact the reproduction or survival of any of the individual marine mammals affected by the Navy's activities. There is no predicted non-auditory tissue damage from explosives for any species, and only one take by PTS of any mysticete (fin whale) annually. Much of the discussion below focuses on the behavioral effects and the mitigation measures that reduce the probability or severity of effects. Because there are species-specific considerations, at the end of the section we break out our findings on a species-specific basis.

In Table 31 above, we indicate for each species the total annual numbers of take by Level A and Level B harassment for mysticetes, and a number indicating the instances of total take as a percentage of abundance in the PMSR Study Area. Note also that for mysticetes, the abundance within the PMSR Study Area represents only a portion of the species or stock abundance.

No Bryde's whales, gray whales (Western North Pacific stock), or sei whales would be taken by Level A harassment or Level B harassment and therefore are not discussed further. For other mysticetes, exposure to explosives will result in small numbers of take: 1–14 Takes by Level B harassment by behavioral disturbance per species, and 4–7 by TTS per species. One take by PTS will result for fin whales and 0 for all other mysticetes. Based on this information, the majority of the Level B harassment by behavioral disturbance is expected to be of low severity and of shorter duration. No non-auditory tissue damage from training and testing activities is anticipated or authorized for any species.

Research and observations show that if mysticetes are exposed to impulsive sounds such as those from explosives, they may react in a variety of ways, which may include alerting, startling, breaking off feeding dives and surfacing, diving or swimming away, changing vocalization, or showing no response at all (DOD, 2017; Nowacek, 2007; Richardson, 1995; Southall *et al.,* 2007). Overall and in consideration of the context for an exposure, mysticetes have been observed to be more reactive to acoustic disturbance when a noise source is located directly in their path or the source is nearby (somewhat independent of the sound level) (Dunlop *et al.,* 2016; Dunlop *et al.,* 2018; Ellison *et al.,* 2011; Friedlaender *et al.,* 2016; Henderson *et al.,* 2019; Malme *et al.,* 1985; Richardson *et al.,* 1995; Southall *et al.,* 2007a). Mysticetes have been observed to be more reactive to acoustic disturbance when a noise source is located directly on their migration route. Mysticetes disturbed while migrating could pause their migration or route around the disturbance, while males en route to breeding grounds have been shown to be less responsive to disturbances. Although some may pause temporarily, they will resume migration shortly after the exposure ends. Animals disturbed while engaged in other activities such as feeding or reproductive behaviors may be more likely to ignore or tolerate the disturbance and continue their natural behavior patterns. Because noise from most activities using explosives is short term and intermittent, and because detonations usually occur within a small area, behavioral reactions from mysticetes, if they occur at all, are likely to be short term and of little to no significance.

Noise from explosions is broadband with most energy below a few hundred Hz; therefore, any reduction in hearing sensitivity from exposure to explosive sounds is likely to be broadband with effects predominantly at lower frequencies. Mysticetes that do experience threshold shift (*i.e.,* TTS or the one instance of PTS for fin whale) from exposure to explosives may have reduced ability to detect biologically important sounds (*e.g.,* social vocalizations). For example, during the short period that a mysticete experiences TTS, social calls from conspecifics could be more difficult to detect or interpret, the ability to detect predators may be reduced, and the ability to detect and avoid sounds from approaching vessels or other stressors might be reduced. Any TTS that would occur would be of short duration.

While NMFS can make a negligible impact determination on Navy's estimated take numbers, the implementation of mitigation and the sightability of mysticetes (especially given their large size) reduces the potential for, and severity of, any threshold shift for mysticetes. When we look in ocean areas where the Navy has been intensively training and testing with explosive and other active acoustic sources for decades, there are no data suggesting any long-term consequences to reproduction or survival rates of mysticetes from explosives and other active acoustic sources. All the mysticete species discussed in this section will benefit from the mitigation measures described earlier in the Proposed Mitigation Measures section. Below we compile and summarize the information that supports our determination that the Navy's activities will not adversely affect any species through effects on annual rates of

recruitment or survival for any of the affected mysticete species.

Humpback whale—As noted in the Description of Marine Mammals and Their Habitat in the Area of the Specified Activities section, humpback whales in the PMSR Study Area are part of the ESA-threatened Mexico DPS and ESA-endangered Central America DPS of the CA/OR/WA stock with an increasing population trend. ESA Critical Habitat has been proposed in the PMSR Study Area. There are two biologically important areas for humpback whale feeding that overlap with a portion of the PMSR Study Area—the Morro Bay to Point Sal Feeding Area (designated from April to November) and the Santa Barbara Channel–San Miguel Feeding Area (designated from March to September) (Calambokidis *et al.,* 2015). Navy testing and training activities that use explosives could occur year round within the PMSR Study Area, although they generally would not occur in these relatively nearshore feeding areas, because both areas are close to the northern Channel Islands NMS, oil production platforms, and major vessel routes leading to and from the ports of Los Angeles and Long Beach. Further, even if some small number of humpback whale takes occurred in these BIAs and were to disrupt feeding behaviors, the short-term nature of the anticipated takes from these activities, combined with the likelihood that they would not occur on more than one day for any individual within a year, means that they are not expected to impact the reproduction or survival of any individuals.

NMFS proposes 12 takes by Level B harassment would occur (see Table 31): 7 takes by behavioral disturbance and 4 takes by TTS for Mexico DPS humpback whales and 1 take by behavioral disturbance and 0 takes by TTS for Central America DPS humpback whales (Table 31). Regarding the magnitude of takes by Level B harassment (TTS and behavioral disruption), the number of estimated total instances of take compared to the abundance is less than 1 percent (Table 31). Regarding the severity of those individual takes by Level B harassment by behavioral disturbance, we have explained that the duration of any exposure is expected to be between seconds and minutes (*i.e.,* short duration) (*i.e.,* of a low level and unlikely to evoke a severe response). Regarding the severity of takes by TTS, they are expected to be low-level, of short duration not at a level that will impact reproduction or survival.

Altogether, the CA/OR/WA stock includes the ESA-listed Mexico DPS (threatened) and Central America (endangered) DPS of humpback whales and has an increasing population trend. There is proposed critical habitat for humpback whales in the PMSR Study Area. Our analysis suggests only a very small portion of the stock will be taken and disturbed at a low-level with those individuals disturbed on likely one day within a year. The proposed takes are not expected to result in impacts on the reproduction or survival of any individuals, let alone have impacts on annual rates of recruitment or survival. No Level A harassment, serious injury, or mortality is anticipated or proposed for authorization. This low magnitude and severity of harassment effects is not expected to result in impacts on the reproduction or survival of any individuals, let alone have impacts on annual rates of recruitment or survival. Therefore, the total take will not adversely affect this species through impacts on annual rates of recruitment or survival. For these reasons, we have preliminarily determined, in consideration of all of the effects of the Navy's activities combined, that the proposed take will have a negligible impact on humpback whales.

Blue whale—Blue whales are listed as endangered under the ESA throughout their range. The Eastern North Pacific stock occurs in the PMSR Study Area with a stable population trend (NMFS 2019; Calambokidis and Barlow, 2020). There is no ESA-designated critical habitat, but there are three biologically important areas (BIAs) for feeding identified for blue whales in the PMSR Study Area. The feeding areas overlap (one wholly and two partially) with the PMSR Study Area (June through October). Navy testing and training activities that use explosives could occur year round within the PMSR Study Area. However, activities using explosives generally would not take place in the Point Conception/Arguello to Point Sal Feeding Area or the Santa Barbara Channel and San Miguel Feeding Area, because both areas are close to the northern Channel Islands NMS, oil production platforms, and major vessel routes leading to and from the ports of Los Angeles and Long Beach. The SNI feeding area overlaps a part of the PMSR Study Area that has been in high use for Navy testing and training activities for decades. Over the years, there has been very little change in Navy testing and training off SNI, and the waters within Warning Area 289, which overlap with the SNI Feeding Area, are essential for testing and training given their proximity to SNI. The area is used during activities requiring an aerial target impact area, missile launches from SNI, aerial and ship-based gunnery events, and sea surface missile launches. Even if some small number of blue whale takes occurred in these BIAs and were to disrupt feeding behaviors, the short-term nature of the anticipated takes from these activities, combined with the likelihood that they would not occur on more than one day for any individual within a year, means that they are not expected to impact the reproduction or survival of any individuals.

NMFS proposes to authorize 11 takes by Level B harassment, 7 takes by behavioral disturbance and 4 takes by TTS for blue whales (Table 31). Regarding the magnitude of takes by Level B harassment (TTS and behavioral disruption), the number of estimated total instances of take compared to the abundance is less than 1 percent (Table 31). Regarding the severity of those individual takes by Level B harassment by behavioral disturbance, we have explained that the duration of any exposure is expected to be between seconds and minutes (*i.e.,* short duration) (*i.e.,* of a low- level). Regarding the severity of takes by TTS, they are expected to be low-level, of short duration not at a level that will impact reproduction or survival.

Altogether, blue whales are listed as endangered, though the Eastern North Pacific stock is stable, and has a very large range. Our analysis suggests that a very small portion of the stock will be taken and disturbed at a low-level, with those individuals disturbed on likely one day within a year. No Level A harassment, serious injury, or mortality is anticipated or proposed for authorization. This low magnitude and severity of harassment effects is not expected to result in impacts on the reproduction or survival of any individuals, let alone have impacts on annual rates of recruitment or survival. Therefore, the total take will not adversely affect this species through impacts on annual rates of recruitment or survival. For these reasons, we have preliminarily determined, in consideration of all of the effects of the Navy's activities combined, that the proposed take will have a negligible impact on blue whales.

Fin whale—Fin whales are listed as endangered under the ESA throughout their range, with no ESA designated critical habitat or known biologically important areas identified for this species in the PMSR Study Area. The population trend for the CA/OR/WA stock, found in the PMSR Study Area, is increasing (NMFS 2019).

NMFS proposes to authorize 22 takes by Level B harassment, 14 takes by behavioral disturbance, 7 takes by TTS, and 1 take by PTS for fin whales (Table 31). Regarding the magnitude of takes by Level B harassment (TTS and behavioral disruption), the number of estimated total instances of take compared to the abundance is less than 1 percent (Table 31). Regarding the severity of those individual takes by Level B harassment by behavioral disturbance, we have explained that the duration of any exposure is expected to be between seconds and minutes (*i.e.,* short) (*i.e.,* of a low level). Regarding the severity of takes by TTS, they are expected to be low-level, of short duration not at a level that will impact reproduction or survival.

Altogether, fin whales are listed as endangered, with no designated critical habitat or biologically important areas in the PMSR Study Area, and the CA/OR/WA stock is increasing. Our analysis suggests that a very small portion of the stock will be taken and disturbed at a low level, with those individuals disturbed on likely one day within a year. No serious injury or mortality is anticipated or proposed for authorization. This low magnitude and severity of harassment effects is not expected to result in impacts on the reproduction or survival of any individuals, let alone have impacts on annual rates of recruitment or survival. Therefore, the total take will not adversely affect this species through impacts on annual rates of recruitment or survival. For these reasons, we have preliminarily determined, in consideration of all of the effects of the Navy's activities combined, that the proposed take will have a negligible impact on fin whales.

Gray whale (Eastern North Pacific stock)—The Gray whale (Eastern North Pacific stock) is not listed as endangered or threatened under the ESA and has an increasing population trend. There is an active UME for gray whales off the West Coast. The Eastern North Pacific population of gray whales that migrate along the West Coast has declined about 24 percent since 2016. It now stands at an estimated 20,580 whales (Stellar and Weller 2021). That is similar to previous fluctuations in the Eastern North Pacific population that has since recovered from the days of whaling. The decline coincides with the UME declared in 2019 and resembles a similar 23 percent decline documented after a UME 20 years earlier, in 1999–2000. The gray whale population rebounded following that previous UME to greater numbers than before. The continuing change in gray whale numbers suggests that large-scale fluctuations of this nature are not rare. The observed declines in abundance appear to represent short-term events that have not resulted in any detectable longer-term impacts on the population. We do not anticipate any mortality or impacts on reproduction or survival of any individuals, and given the low magnitude and severity of effects from Level B harassment only, even with the UME, they will not result in impacts on individual reproduction or survival, much less annual rates of recruitment or survival. Therefore, population-level effects to gray whales from the Navy's activities despite the UME are not anticipated.

Four designated biologically important areas for migration for gray whales (Calambokidis *et al.,* 2015) overlap with the PMSR Study Area and are active migration areas from October through July, although each individual area has its own specific date range depending on what portion of the northbound or southbound migration it is meant to cover. Gray whales would cross the PMSR Study Area twice a year during their annual southbound and northbound migrations. Navy testing and training activities that use explosives could occur year round within the PMSR Study Area, but generally they would occur farther offshore than the shallow-water, nearshore habitat generally preferred by gray whales during their migration. In an early study investigating the behavior of migrating gray whales exposed to an impulsive source in their migration path, a startle response was observed in 42 percent of the cases, but the change in behavior, when it occurred, did not persist (Malme *et al.,* 1984; Malme *et al.,* 1988; Richardson, 1995). If a gray whale were to react to sound from an explosion, it may pause its migration until the noise ceases or moves, or it may choose an alternate route around the location of the sound source if the source was directly in the whale's migratory path. Even if some small number of gray whale takes occurred in these BIAs in the form of disrupted feeding behaviors or traveling for migration, the short-term nature of the anticipated takes from these activities, combined with the likelihood that they would not occur on more than one day for any individual within a year, mean that they are not expected to impact the reproduction or survival of any individuals.

NMFS proposes to authorize 14 takes by Level B harassment, 9 takes by behavioral disturbance and 5 takes by TTS for gray whales (Table 31). Regarding the magnitude of takes by Level B harassment (TTS and behavioral disruption), the number of estimated total instances of take compared to the abundance is less than 1 percent (Table 31). Regarding the severity of those individual takes by Level B harassment by behavioral disturbance, we have explained that the duration of any exposure is expected to be between minutes and hours (*i.e.,* relatively short) (*i.e.,* of a moderate or lower level, less likely to evoke a severe response). Regarding the severity of takes by TTS, they are expected to be low-level, of short duration not at a level that will impact reproduction or survival.

Altogether, gray whales (Eastern North Pacific stock) are not listed under the ESA and the population is increasing. Our analysis suggests that a very small portion of the stock will be taken and disturbed at a low level, with those individuals disturbed on likely one day within a year. No Level A harassment, serious injury, or mortality is anticipated or proposed for authorization. This low magnitude and severity of harassment effects is not expected to result in impacts on the reproduction or survival of any individuals, either alone or in combination with the effects of the UME, let alone have impacts on annual rates of recruitment or survival. Therefore, the total take will not adversely affect this species through impacts on annual rates of recruitment or survival. For these reasons, we have preliminarily determined, in consideration of all of the effects of the Navy's activities combined, that the proposed take will have a negligible impact on gray whales.

Minke whale—Minke whale is not listed as endangered or threatened under the ESA and there are no known biologically important areas identified for these species in the PMSR Study Area. The CA/OR/WA stock occurs in the PMSR Study Area with no known population trend.

NMFS proposes to authorize 3 takes by Level B harassment, 2 takes by behavioral disturbance and 1 take by TTS for minke whales (Table 31). Regarding the magnitude of takes by Level B harassment (TTS and behavioral disruption), the number of estimated total instances of take compared to the abundance is less than 1 percent (Table 31). Regarding the severity of those individual takes by Level B harassment by behavioral disturbance, we have explained that the duration of any exposure is expected to be between minutes and hours (*i.e.,* relatively short) (*i.e.,* of a moderate or lower level, less likely to evoke a severe response). Regarding the severity of takes by TTS,

they are expected to be low-level, of short duration not at a level that will impact reproduction or survival.

Altogether, minke whales are not listed under the ESA and with no known population trend. Our analysis suggests that a very small portion of the stock will be taken and disturbed at a low level, with those individuals disturbed likely one day within a year. No Level A harassment, serious injury, or mortality is anticipated or proposed for authorization. This low magnitude and severity of harassment effects is not expected to result in impacts on the reproduction or survival of any individuals, let alone have impacts on annual rates of recruitment or survival. Therefore, the total take will not adversely affect this species through impacts on annual rates of recruitment or survival. For these reasons, we have preliminarily determined, in consideration of all of the effects of the Navy's activities combined, that the proposed take will have a negligible impact on minke whales.

Odontocetes

This section builds on the broader discussion above and brings together the discussion of the different types and amounts of take that different species are likely to incur, the applicable mitigation for each species, and the status of the species to support the negligible impact determinations for each species. We have described (above in the General Negligible Impact Analysis section) the unlikelihood of any masking having effects that would impact the reproduction or survival of any of the individual marine mammals affected by the Navy's activities. We also described in the Potential Effects of Specified Activities on Marine Mammals and their Habitat section of this proposed rule the unlikelihood of any habitat impacts having effects that would impact the reproduction or survival of any of the individual marine mammals affected by the Navy's activities. There is no predicted PTS from explosives for most odontocetes, with the exception of a few species, which is discussed below. There is no predicted non-auditory tissue damage from explosives for any species. Much of the discussion below focuses on the behavioral effects and the mitigation measures that reduce the probability or severity of effects. Here, we include information that applies to all of the odontocete species, which are then further divided and discussed in more detail in the following subsections: Kogia whales; sperm whales; beaked whales; porpoise, and dolphins and small whales. These subsections include more specific information about the groups, as well as conclusions for each species represented.

In Table 31 above, we indicate for each species the total annual numbers of take by Level A and Level B harassment for odontocetes, and a number indicating the instances of total take as a percentage of abundance in the PMSR Study Area. Note also that, for all odontocetes where estimated take is requested, their abundance within the PMSR Study Area represents only a portion of their respective species population.

No Baird's beaked whale, Cuvier's beaked whale, *Mesoplodont* spp. harbor porpoise, bottlenose dolphin (California coastal stock), killer whale, or short-finned pilot whale will be taken by Level A harassment or Level B harassment and therefore are not discussed further.

Odontocete echolocation occurs predominantly at frequencies significantly higher than 20 kHz, though there may be some small overlap at the lower part of their echolocating range for some species, which means that there is little likelihood that threshold shift, either temporary or permanent would interfere with feeding behaviors. Many of the other critical sounds that serve as cues for navigation and prey (*e.g.,* waves, fish, invertebrates) occur below a few kHz and the threshold shift that might be incurred by individuals exposed to explosives would likely be lower frequency (5 kHz or less) and spanning a wider frequency range, which could slightly lower an individual's sensitivity to navigational or prey cues, or a small portion of communication calls, for several minutes to hours (if temporary) or permanently. There is no reason to think that any of the individual odontocetes taken by TTS would incur these types of takes over more than one day, and therefore they are unlikely to result in impacts on reproduction or survival. The number of PTS takes from these activities are very low (0 annually for most, 1–15 for a few species, and 49 for Dall's porpoise), and as discussed previously because of the low degree of PTS (*i.e.,* low amount of hearing sensitivity loss), it is unlikely to affect reproduction or survival of any individuals.

The range of potential behavioral effects of sound exposure on marine mammals generally, and odontocetes specifically, has been discussed in detail previously. There are behavioral patterns that differentiate the likely impacts on odontocetes as compared to mysticetes. First, odontocetes echolocate to find prey, which means that they actively send out sounds to detect their prey. While there are many strategies for hunting, one common pattern, especially for deeper diving species, is many repeated deep dives within a bout, and multiple bouts within a day, to find and catch prey. As discussed above, studies demonstrate that odontocetes may cease their foraging dives in response to sound exposure. If enough foraging interruptions occur over multiple sequential days, and the individual either does not take in the necessary food, or must exert significant effort to find necessary food elsewhere, energy budget deficits can occur that could potentially result in impacts to reproductive success, such as increased cow/calf intervals (the time between successive calving). Second, while many mysticetes rely on seasonal migratory patterns that position them in a geographic location at a specific time of the year to take advantage of ephemeral large abundances of prey (*i.e.,* invertebrates or small fish, which they eat by the thousands), odontocetes forage more homogeneously on one fish or squid at a time. Therefore, if odontocetes are interrupted while feeding, it is often possible to find more prey relatively nearby.

Dwarf Sperm Whales and Pygmy Sperm Whales (Kogia species)—This section builds on the broader odontocete discussion above and brings together the discussion of the different types and amounts of take that these two species are likely to incur, the applicable mitigation, and the status of the species to support the negligible impact determinations for each species. Some Level A harassment by PTS is anticipated annually (6 takes for Dwarf and pygmy whale, see Table 31).

In Table 31 above, we indicate for each species the total annual numbers of take by Level A and Level B harassment above for dwarf sperm whales and pygmy sperm whales, and a number indicating the instances of total take as a percentage of the abundance within the PMSR Study Area. Note also that, for dwarf and pygmy sperm whales (and all odontocetes), the abundance within the PMSR Study Area represents only a portion of the species abundance.

As discussed above, the majority of takes by Level B harassment by behavioral disturbance of odontocetes, and thereby dwarf and pygmy sperm whales, is expected to be in the form of low severity of a shorter duration. As discussed earlier in this section, we anticipate more severe effects from takes when animals are exposed to higher received levels or for longer durations. Occasional milder Level B harassment

by behavioral disturbance, as is expected here, is unlikely to cause long-term consequences for either individual animals or populations.

We note that dwarf and pygmy sperm whales, as HF-sensitive species, have a lower PTS threshold than all other groups and therefore are generally likely to experience larger amounts of TTS and PTS. NMFS accordingly has evaluated slightly higher numbers of take for these species than most odontocetes (some of which would have zero takes of TTS/PTS). Even though the number of TTS and PTS takes are higher than for other odontocetes, any TTS and PTS is expected to be at a low to moderate level and for all of the reasons described above, TTS and PTS takes are not expected to impact reproduction or survival of any individual.

Neither pygmy sperm whales nor dwarf sperm whales are listed under the ESA, and there are no known biologically important areas identified for these species in the PMSR Study Area. The CA/OR/WA stocks specified for pygmy sperm whales and dwarf sperm whales are found in the PMSR Study Area. There is no information on trends for these species within the PMSR Study Area. Both pygmy and dwarf sperm whales will benefit from the mitigation measures described earlier in the Proposed Mitigation Measures section.

Regarding the magnitude of Level B harassment takes (TTS and behavioral disruption), the number of estimated total instances of take compared to the abundance is less than 2 percent for both dwarf and pygmy sperm whales in the PMSR Study Area (Table 31). Regarding the severity of those individual Level B harassment takes by behavioral disruption, we have explained that the duration of any exposure is expected to be between seconds and minutes (*i.e.,* short duration). Regarding the severity of TTS takes, they are expected to be low to moderate level, of short duration, and are broadband that would be expected to interfere with dwarf or pygmy sperm whale communication or other important cues. Therefore, the associated lost opportunities and capabilities are not at a level that will impact reproduction or survival. Dwarf sperm whales and pygmy sperm whales could be taken by a small amount of PTS annually, of likely low to moderate severity as described previously. A small permanent loss of hearing sensitivity (PTS) may include some degree of energetic costs for compensating or may mean some small loss of opportunities or detection capabilities, but at the expected degree the estimated takes by Level A harassment takes by PTS for dwarf sperm whales and pygmy sperm whales are unlikely to impact behaviors, opportunities, or detection capabilities to a degree that will interfere with reproductive success or survival of any individuals, let alone affect annual rates of recruitment or survival for the species.

Altogether, dwarf and pygmy sperm whales are not listed under the ESA and there are no known population trends. Our analysis suggests that a small portion of the stock in the PMSR Study Area will be taken, and disturbed at a low to moderate level, with those individuals likely not disturbed on more than one day a year. No serious injury or mortality is anticipated or proposed for authorization. The low magnitude and low to moderate severity of harassment effects is not expected to result in impacts on the reproduction or survival of any individuals, let alone have impacts on annual rates of recruitment or survival. Therefore, the total take will not adversely affect this species through impacts on annual rates of recruitment or survival. Some individuals are estimated to be taken by PTS of likely low to moderate severity. A small permanent loss of hearing sensitivity (PTS) may include some degree of energetic costs for compensating or may mean some small loss of opportunities or detection capabilities, but at the expected scale the estimated takes by Level A harassment by PTS are unlikely to impact behaviors, opportunities, or detection capabilities to a degree that would interfere with reproductive success or survival of any individuals, let alone affect annual rates of recruitment or survival. For these reasons, we have preliminarily determined, in consideration of all of the effects of the Navy's activities combined, that the proposed take will have a negligible impact on both dwarf and pygmy sperm whales.

Sperm whale—This section brings together the broader discussion above with the discussion of the different types and amounts of take that sperm whales could potentially incur, the applicable mitigation, and the status of the species to support the negligible impact determination.

In Table 31 above, we indicate the total annual numbers of take by Level A and Level B harassment for sperm whales, and a number indicating the instances of total take as a percentage of the abundance within the PMSR Study Area. Note also that, for sperm whales, the abundance within the PMSR Study represents only a portion of the species abundance.

As discussed above, the majority of take by Level B harassment by behavioral disturbance of odontocetes, and thereby sperm whales, is expected to be in the form of low severity of a generally shorter duration and is unlikely to cause long-term consequences for either individual animals or populations.

Sperm whales are listed as endangered under the ESA throughout their range, but there is no ESA designated critical habitat or known biologically important areas identified for this species within the PMSR Study Area. The CA/OR/WA stock occurs in the PMSR Study with a stable population trend (NMFS 2019). Sperm whales will benefit from the mitigation measures described earlier in the Proposed Mitigation Measures section.

Regarding the magnitude of takes by Level B harassment (TTS and behavioral disruption), the number of estimated total instances of take compared to the abundance is less than 1 percent in the PMSR Study Area (Table 31). Regarding the severity of those individual takes by Level B harassment by behavioral disturbance, we have explained that the duration of any exposure is expected to be between seconds and minutes (*i.e.,* short duration) and of a low level. Regarding the severity of TTS takes, they are expected to be low-level, of short duration, and mostly not in a frequency band that would be expected to interfere with important low-frequency cues, and would not be at a level that will impact reproduction or survival.

Altogether, sperm whales are listed as endangered under the ESA and have a stable population trend. Our analysis suggests that very few individuals within the PMSR Study Area will be taken and disturbed at a low level, with those individuals disturbed on likely one day within a year. No Level A harassment, serious injury, or mortality is anticipated or proposed for authorization. This low magnitude and severity of harassment effects is not expected to result in impacts on the reproduction or survival of any individuals, let alone have impacts on annual rates of recruitment or survival. Therefore, the total take will not adversely affect this species through impacts on annual rates of recruitment or survival. For these reasons, we have preliminarily determined, in consideration of all of the effects of the Navy's activities combined, that the proposed take will have a negligible impact on sperm whales.

Porpoise (Dall's Porpoise)—This section builds on the broader odontocete discussion above and brings together the discussion of the different types and amounts of take that Dall's porpoise are likely to incur, the applicable mitigation, and the status of the species to support the negligible impact determinations for each species. Some Level A harassment by PTS is anticipated annually (49 takes, see Table 31).

In Table 31 above, we indicate the total annual numbers of take by Level A and Level B harassment for Dall's porpoise, and a number indicating the instances of total take as a percentage of the abundance within the PMSR Study Area. Note also that, for Dall's porpoise (and all odontocetes), the abundance within the PMSR Study Area represents only a portion of the species abundance.

As discussed above, the majority of takes by Level B harassment by behavioral disturbance of odontocetes, and thereby Dall's porpoise, is expected to be in the form of low to moderate severity of a shorter duration. As discussed earlier in this section, we anticipate more severe effects from takes when animals are exposed to higher received levels or for longer durations. Occasional milder Level B harassment by behavioral disturbance, as is expected here, is unlikely to cause long-term consequences for either individual animals or populations.

We note that Dall's porpoise, as HF-sensitive species, have a lower PTS threshold than all other groups and therefore are generally likely to experience larger amounts of TTS and PTS. NMFS accordingly has evaluated slightly higher numbers of take for these species than most odontocetes (some of which would have zero takes of TTS/PTS). Therefore, even though the number of TTS and PTS takes are higher than for other odontocetes, any TTS or PTS is expected to be at a low to moderate level and for all of the reasons described above, TTS and PTS takes are not expected to impact reproduction or survival of any individual.

Dall's porpoise are not listed under the ESA, and there are no known biologically important areas identified for these species in the PMSR Study Area. The CA/OR/WA stock is found in the PMSR Study Area. There is no information on trends for this species within the PMSR Study Area. Dall's porpoise will benefit from the mitigation measures described earlier in the Proposed Mitigation Measures section.

Regarding the magnitude of Level B harassment takes (TTS and behavioral disruption), the number of estimated total instances of take compared to the abundance is less than 3 percent for Dall' porpoise in the PMSR Study Area (Table 31). Regarding the severity of those individual Level B harassment takes by behavioral disruption, we have explained that the duration of any exposure is expected to be between seconds and minutes (*i.e.,* relatively short duration). Regarding the severity of TTS takes, they are expected to be low to moderate level, of short duration, and mostly not in a frequency band that would be expected to interfere with communication and, therefore, the associated lost opportunities and capabilities are not at a level that will impact reproduction or survival. Dall's porpoise could be taken by a small amount of PTS annually, of likely low to moderate severity as described previously. A small permanent loss of hearing sensitivity (PTS) may include some degree of energetic costs for compensating or may mean some small loss of opportunities or detection capabilities, but at the expected degree the estimated takes by Level A harassment takes by PTS for Dall's porpoise are unlikely to impact behaviors, opportunities, or detection capabilities to a degree that will interfere with reproductive success or survival of any individuals, let alone affect annual rates of recruitment or survival.

Altogether, Dall's porpoise are not listed under the ESA and there are no known population trends for the CA/OR/WA stock. Our analysis suggests that a small portion of the stock will be taken, and disturbed at a low to moderate level, with those individuals likely not disturbed on more than one day or so a year. No serious injury or mortality is anticipated or proposed for authorization. The low magnitude and low to moderate severity of harassment effects is not expected to result in impacts on the reproduction or survival of any individuals, let alone have impacts on annual rates of recruitment or survival. Therefore, the total take will not adversely affect this species through impacts on annual rates of recruitment or survival. Some individuals are estimated to be taken by PTS of likely low to moderate severity. A small permanent loss of hearing sensitivity (PTS) may include some degree of energetic costs for compensating or may mean some small loss of opportunities or detection capabilities, but at the expected scale the estimated takes by Level A harassment by PTS are unlikely to impact behaviors, opportunities, or detection capabilities to a degree that would interfere with reproductive success or survival of any individuals, let alone affect annual rates of recruitment or survival. For these reasons, we have preliminarily determined, in consideration of all of the effects of the Navy's activities combined, that the proposed take will have a negligible impact on Dall's porpoise.

Small Whales and Dolphins—This section builds on the broader discussion above and brings together the discussion of the different types and amounts of take that different small whale and dolphin species are likely to incur, the applicable mitigation, and the status of the species to support the negligible impact determinations for each species.

In Table 31 above, we indicate for each species the total annual numbers of take by Level A and Level B harassment for dolphins and small whales, and a number indicating the instances of total take as a percentage of abundance in the PMSR Study Area. Note also that, for dolphins and small whales, the abundance within the PMSR Study Area represents only a portion of the respective species abundance.

The majority of takes by Level B harassment are expected to be in the form of low severity of a shorter duration. Occasional milder Level B harassment by behavioral disturbance, as is expected here, is unlikely to cause long-term consequences for either individual animals or populations that have any effect on reproduction or survival. Limited Level A harassment (PTS) is anticipated and proposed for six species (Long and short-beaked common dolphins, bottlenose dolphin, Risso's dolphin, Pacific white-sided dolphin, and Northern right whale dolphin).

Research and observations show that if delphinids are exposed to sounds they may react in a number of ways depending on their experience with the sound source and what activity they are engaged in at the time of the acoustic exposure. Delphinids may not react at all until the sound source is approaching within a few hundred meters, such as with a ship with hull-mounted sonar, to within a few kilometers, depending on the environmental conditions and species. Some dolphin species (the more surface-dwelling taxa—typically those with ''dolphin'' in the common name, such as bottlenose dolphins, spotted dolphins, spinner dolphins, rough-toothed dolphins, etc., but not Risso's dolphins), especially those residing in more industrialized or busy areas, have demonstrated more tolerance for disturbance and loud sounds and many of these species are known to approach

vessels to bow-ride. These species are often considered generally less sensitive to disturbance. Dolphins and small whales that reside in deeper waters and generally have fewer interactions with human activities are more likely to demonstrate more typical avoidance reactions and foraging interruptions as described above in the odontocete overview.

All the dolphin and small whale species discussed in this section will benefit from the mitigation measures described earlier in the Proposed Mitigation Measures section.

None of the small whale and dolphin species are listed as endangered or threatened species under the ESA. There are CA/OR/WA stocks for most of the small whales and dolphins found in the PMSR Study Area and most have unknown population trends, with the exception of the Short-beaked common dolphin that has a stable population trend and the Long-beaked common dolphin (California stock) that has an increasing population trend.

Regarding the magnitude of takes by Level B harassment (TTS and behavioral disturbance), the number of estimated total instances of take compared to the abundance is less than one percent for the dolphins and small whales in the PMSR Study Area (Table 31). Regarding the severity of those individual takes by Level B harassment by behavioral disturbance, we have explained the duration of any exposure is expected to be between seconds and minutes (*i.e.,* short duration). Regarding the severity of takes by TTS, they are expected to be low-level, of short duration and not at a level that will impact reproduction or survival. One to two individuals each of four species (Bottlenose dolphin, Northern right whale dolphin, Pacific white-dolphin, Risso's dolphin) are estimated to be taken by one to two PTS annually, of likely low severity as described previously. Slightly more takes by PTS for short-beaked common dolphin and long-beaked common dolphin are proposed for authorization, 15 and 9 takes, respectively. A small permanent loss of hearing sensitivity may include some degree of energetic costs for compensating or may mean some small loss of opportunities or detection capabilities, but at the expected scale the estimated takes by Level A harassment by PTS are unlikely to impact behaviors, opportunities, or detection capabilities to a degree that will interfere with reproductive success or survival of any individuals, let alone affect annual rates of recruitment or survival.

Altogether, none of the small whale or dolphin species are listed under the ESA and there are no known population trends for most species. No serious injury or mortality is anticipated or proposed for authorization. Our analysis suggests that only a small portion of the individuals of any of these species in the PMSR Study Area will be taken and disturbed at a low level, with those individuals likely disturbed no more than a day a year. Some take by PTS for five dolphin species is anticipated and proposed for authorization, but at the expected scale the estimated take by Level A harassment by PTS is unlikely to impact behaviors, opportunities, or detection capabilities to a degree that would interfere with reproductive success or survival of any individuals, let alone annual rates of recruitment or survival. This low magnitude and severity of harassment effects is not expected to result in impacts on the reproduction or survival of any individuals, let alone have impacts on annual rates of recruitment or survival. Therefore, the total take will not adversely affect these species through impacts on annual rates of recruitment or survival. For these reasons, we have preliminarily determined, in consideration of all of the effects of the Navy's activities combined, that the authorized take will have a negligible impact on all of these species of small whales and dolphins.

Pinnipeds

This section builds on the broader discussion above and brings together the discussion of the different types and amounts of take that different species and stocks of pinnipeds will likely incur, the applicable mitigation, and the status of the species and stocks to support the negligible impact determinations for each species or stock. We have described (above in the *General Negligible Impact Analysis* section) the unlikelihood of any masking having effects that will impact the reproduction or survival of any of the individual marine mammals affected by the Navy's activities. We have also described in the Potential Effects of Specified Activities on Marine Mammals and their Habitat section of this proposed rule that the specified activities would not have adverse or long-term impacts on marine mammal habitat, and therefore the unlikelihood of any habitat impacts affecting the reproduction or survival of any individual marine mammals affected by the Navy's activities. For pinnipeds, no serious injury or mortality is anticipated or proposed for authorization. Here, we include information that applies to all of the pinniped species and stocks.

In Table 31 and 32 above, we indicate the total annual numbers of take by Level A and Level B harassment for pinnipeds, and a number indicating the instances of total take as a percentage of the abundance within the PMSR Study Area by explosives and also by missile and rocket launch activities on SNI. Note also that, for pinniped species and stocks, the abundance within the PMSR Study Area represents only a portion of the species abundance.

The majority of take by Level B harassment by behavioral disturbance of pinnipeds, is expected to be in the form of low severity of short duration for explosives and low to moderate severity of short duration for target and missile launches on SNI and is unlikely to cause long-term consequences for either individual animals or populations.

Pinnipeds in the PMSR Study Area are not listed under the ESA with the exception of the threatened Guadalupe fur seal (Mexico stock), but there is no ESA designated critical habitat for the Guadalupe fur seal. Pupping does occur on SNI beaches, January through July. The Guadalupe fur seal has an increasing population trend. Nevertheless, there is an active UME for Guadalupe fur seal. Since 2015, there have been 492 strandings of Guadalupe fur seals (including live and dead seals). However, we do not anticipate any mortality or impacts on reproduction or survival of any individuals, and, given the low magnitude and severity of effects from Level B harassment only (2 Level B harassment takes annually), even with the UME they will not result in impacts on individual reproduction or survival, much less annual rates of recruitment or survival. Therefore, population-level effects to Guadalupe fur seal from the Navy's activities despite the UME are not anticipated. The California sea lion UME was recently closed, as elevated strandings occurred from 2013–2016. The U.S. stock of California sea lions has an increasing population trend. The California stocks of Northern Elephant seal and Northern fur seals also have an increasing population trend. The California stock of harbor seals has a stable population trend. Pinnipeds will benefit from the mitigation measures described earlier in the Proposed Mitigation Measures section.

Regarding the magnitude of takes by Level B harassment (TTS and behavioral disruption) for explosives, the number of estimated total instances of take compared to the abundance is approximately 1 percent or less in the PMSR Study Area (Table 31). Regarding the magnitude of takes by Level B harassment (TTS and behavioral

disruption) for target and missile launches, the number of estimated total instances of take compared to the abundance is less than five percent in the PMSR Study Area (Table 32). Given this information and the ranges of these stocks (*i.e.,* large ranges, but with individuals often staying in the vicinity of haulouts), only a small portion of individuals in these stocks are likely impacted and repeated exposures of individuals are not anticipated during explosives (*i.e.,* individuals are not expected to be taken on more than a few days within a year). Regarding the severity of those individual takes by Level B harassment by behavioral disturbance for explosives, the duration of any exposure is expected to be between seconds and minutes (*i.e.,* short duration). Regarding the severity of TTS takes from explosives, they are expected to be of low-level and short duration, and any associated lost opportunities and capabilities would not be at a level that will impact reproduction or survival.

Three species of pinnipeds (harbor seals, Northern elephant seal, and California sea lions) are estimated to be taken by PTS from explosives, 14, 22, and 2 takes, respectively, of likely low severity. A small permanent loss of hearing sensitivity (PTS) may include some degree of energetic costs for compensating or may mean some small loss of opportunities or detection capabilities, but at the expected scale the estimated takes by Level A harassment by PTS are unlikely to impact behaviors, opportunities, or detection capabilities to a degree that will interfere with reproductive success or survival of any individuals, let alone affect annual rates of recruitment or survival.

For missile launch activities on SNI, the proposed activities may result in take, in the form of Level B harassment only, from airborne sounds of missile launch activities (Table 32). A portion of individuals in these stocks are likely impacted and repeated exposures of individuals are anticipated during missile and target launches for pinnipeds hauled out on SNI (*i.e.,* individuals are expected to be taken on up to several days within a year), however, there is no reason to expect that these disturbances would occur on sequential days.

Regarding the magnitude of takes by Level B harassment, the number of estimated total instances of take compared to the abundance is less than 5 percent on SNI for all pinniped species (Table 32). Based on the best available information, including monitoring reports from similar activities that have been authorized by NMFS, Level B harassment will likely be limited behavioral reactions such as alerting to the noise, with some animals possibly moving toward or entering the water (*i.e.,* movements of more than 10 m and occasional flushing into the water with return to haulouts), depending on the species and the intensity of the launch noise. Regarding the severity of those individual takes by Level B harassment, any exposure is expected to be low to moderate and of relatively short duration and are unlikely to result in hearing impairment or to significantly disrupt foraging behavior. Given the launch acceleration and flight speed of the missiles, most launch events are of extremely short duration. Strong launch sounds are typically detectable near the beaches at western SNI for no more than a few seconds per launch (Holst *et al.,* 2010; Holst *et al.,* 2005a; Holst *et al.,* 2008; Holst *et al.,* 2005b). Pinnipeds hauled out on beaches where missiles fly over launched from the Alpha Launch Complex routinely haul out and continue to use these beaches in large numbers, but at the Building 807 Launch Complex few pinnipeds are known to haul out on the shoreline immediately adjacent to this launch site. We do not expect repeated exposures to occur on sequential days as it can take up to several weeks of planning between launch events. Responses of pinnipeds on beaches during launches are highly variable. Harbor seals can be more reactive when hauled out compared to other species, such as northern elephant seals. Northern elephant seals generally exhibit no reaction at all, except perhaps a heads-up response or some stirring. However, stronger reactions may occur if California sea lions are in the same area mingled with the northern elephant seals and the sea lions react strongly. While the reactions are variable, and can involve abrupt movements by some individuals, biological impacts of these responses appear to be limited. Even some number of repeated instances of Level B harassment (with no particular likelihood of sequential days or more sustained effect) of some small subset of an overall stock is unlikely to result in any decrease in fitness to those individuals, and thus would not result in any adverse impact to a stock as a whole. Flushing of pinnipeds into the water has the potential to result in mother-pup separation, or a stampede, either of which could potentially result in serious injury or mortality. For example, in some cases, harbor seals at SNI appear to be more responsive during the pupping/breeding season (Holst *et al.* 2005a; Holst *et al.* 2008), while in others, mothers and pups seem to react less to launches than lone individuals (Ugoretz and Greene Jr. 2012), and California sea lions seem to be consistently less responsive during the pupping season (Holst *et al.* 2010; Holst *et al.* 2005a; Holst *et al.* 2008; Holst *et al.* 2011; Holst *et al.* 2005b; Ugoretz and Greene Jr. 2012). Though pup abandonment could theoretically result from these reactions, site-specific monitoring data indicate that pup abandonment is not likely to occur as a result of the target and missile launches, as it has not been previously observed. As part of mitigation the Navy would avoid target and missile launches during the peak pinniped pupping season to the maximum extent practicable, and missiles would not cross over pinniped haulouts at elevations less than 305 m (1,000 ft). Based on the best available information, including reports from almost 20 years of marine mammal monitoring during launch events, no injury, serious injury, or mortality of marine mammals has occurred from any flushing events or is anticipated or proposed for authorization.

Altogether, pinnipeds are not listed under the ESA (except for Guadalupe fur seal that are threatened) and all pinniped stocks have increasing, stable, or unknown population trends. Our analysis suggests that a small portion of the stocks will be taken and disturbed at a low-moderate level, with those individuals disturbed on likely one day within a year from explosives and some individuals on SNI likely disturbed a few days a year within a year from target and missile launches. No serious injury or mortality is anticipated or proposed for authorization. No more than 22 individuals from three pinniped stocks are estimated to be taken by PTS, of likely low severity, annually. Additionally, no PTS is expected for Guadalupe fur seal. This low to moderate magnitude and severity of harassment effects is not expected to result in impacts on the reproduction or survival of any individuals (either alone or in combination with the effects of the UME for Guadulupe fur seal), let alone have impacts on annual rates of recruitment or survival, and therefore the total take will not adversely affect this species through impacts on annual rates of recruitment or survival. For these reasons, we have preliminarily determined, in consideration of all of the effects of the Navy's activities combined, that the proposed take will have a negligible impact on pinnipeds.

Determination

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, NMFS preliminarily finds that the total marine mammal take from the Specified Activities will have a negligible impact on all affected marine mammal species. In addition as described previously, the Navy's proposed implementation of monitoring and mitigation measures would further reduce impacts to marine mammals.

Subsistence Harvest of Marine Mammals

In order to issue an incidental take authorization, NMFS must find that the specified activity will not have an ''unmitigable adverse impact'' on the subsistence uses of the affected marine mammal species or stocks by Alaskan Natives. NMFS has defined ''unmitigable adverse impact'' in 50 CFR 216.103 as an impact resulting from the specified activity: (1) That is likely to reduce the availability of the species to a level insufficient for a harvest to meet subsistence needs by: (i) Causing the marine mammals to abandon or avoid hunting areas; (ii) Directly displacing subsistence users; or (iii) Placing physical barriers between the marine mammals and the subsistence hunters; and (2) That cannot be sufficiently mitigated by other measures to increase the availability of marine mammals to allow subsistence needs to be met.

To our knowledge there are no relevant subsistence uses of the affected marine mammal stocks or species implicated by this action. Therefore, NMFS has preliminarily determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of the species or stocks for taking for subsistence purposes.

Classification

Endangered Species Act

There are six marine mammal species under NMFS jurisdiction that are listed as endangered or threatened under the ESA with confirmed or possible occurrence in the PMSR Study Area: Blue whale, fin whale, gray whale, humpback whale, sei whale, and sperm whale. NMFS published a proposed rule on ESA-designated critical habitat for humpback whales (84 FR 54354; October 9, 2019).

The Navy will consult with NMFS pursuant to section 7 of the ESA for PMSR Study Area activities. NMFS will also consult internally on the issuance of the regulations and LOA under section 101(a)(5)(A) of the MMPA.

National Marine Sanctuaries Act

NMFS will work with NOAA's Office of National Marine Sanctuaries to fulfill our responsibilities under the National Marine Sanctuaries Act as warranted and will complete any NMSA requirements prior to a determination on the issuance of the final rule and LOA.

National Environmental Policy Act

To comply with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO) 216–6A, NMFS must evaluate our proposed actions and alternatives with respect to potential impacts on the human environment. Accordingly, NMFS plans to adopt the PMSR FEIS/OEIS for the PMSR Study Area, provided our independent evaluation of the document finds that it includes adequate information analyzing the effects on the human environment of issuing regulations and LOAs under the MMPA. NMFS is a cooperating agency on the 2020 PMSR DEIS/OEIS and has worked extensively with the Navy in developing the document. The 2020 PMSR DEIS/OEIS was made available for public comment (85 FR 55257, April 24, 2020) (Also see *https://pmsr-eis.com*). We will review all comments submitted in response to the request for comments on the 2020 PMSR DEIS/OEIS and in response to the request for comments on this proposed rule prior to concluding our NEPA process or making a final decision on this proposed rule for the issuance of regulations under the MMPA and any subsequent issuance of a Letter of Authorization (LOA) to the Navy to incidentally take marine mammals during the specified activities.

Executive Order 12866

The Office of Management and Budget has determined that this proposed rule is not significant for purposes of Executive Order 12866.

Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (RFA), the Chief Counsel for Regulation of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The RFA requires Federal agencies to prepare an analysis of a rule's impact on small entities whenever the agency is required to publish a notice of proposed rulemaking. However, a Federal agency may certify, pursuant to 5 U.S.C. 605(b), that the action will not have a significant economic impact on a substantial number of small entities. The Navy is the sole entity that would be affected by this rulemaking, and the Navy is not a small governmental jurisdiction, small organization, or small business, as defined by the RFA. Any requirements imposed by an LOA issued pursuant to these regulations, and any monitoring or reporting requirements imposed by these regulations, would be applicable only to the Navy. NMFS does not expect the issuance of these regulations or the associated LOAs to result in any impacts to small entities pursuant to the RFA. Because this action, if adopted, would directly affect the Navy and not a small entity, NMFS concludes that the action would not result in a significant economic impact on a substantial number of small entities.

List of Subjects in 50 CFR Part 218

Exports, Fish, Imports, Incidental take, Indians, Labeling, Marine mammals, Navy, Penalties, Reporting and recordkeeping requirements, Seafood, Sonar, Transportation.

Dated: July 1, 2021.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is proposed to be amended as follows:

PART 218—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

■ 1. The authority citation for part 218 continues to read as follows:

Authority: 16 U.S.C. 1361 *et seq.,* unless otherwise noted.

■ 2. Revise subpart B to read as follows:

Subpart B—Taking and Importing Marine Mammals; U.S. Navy's Point Mugu Sea Range (PMSR) Training and Testing (PMSR) Study Area

Sec.

218.10 Specified activity and geographical region.
218.11 Effective dates.
218.12 Permissible methods of taking.
218.13 Prohibitions.
218.14 Mitigation requirements.
218.15 Requirements for monitoring and reporting.
218.16 Letters of Authorization.
218.17 Renewals and modifications of Letters of Authorization.
218.18 Reserved
218.19 Reserved

Subpart B—Taking and Importing Marine Mammals; U.S. Navy's Point Mugu Sea Range (PMSR) Training and Testing (PMSR) Study Area

§ 218.10 Specified activity and geographical region.

(a) Regulations in this subpart apply only to the U.S. Navy for the taking of marine mammals that occurs in the area described in paragraph (b) of this section and that occurs incidental to the activities listed in paragraph (c) of this section.

(b) The taking of marine mammals by the Navy under this subpart may be authorized in a Letter of Authorization (LOA) only if it occurs within the Point Mugu Sea Range (PMSR) Training and Testing Study Area. The PMSR Study Area is located adjacent to Los Angeles, Ventura, Santa Barbara, and San Luis Obispo Counties along the Pacific Coast of Southern California and includes a 36,000-square-mile sea range. The two primary components of the PMSR Complex are Special Use Airspace and the ocean Operating Areas.

(c) The taking of marine mammals by the Navy is only authorized if it occurs incidental to the Navy conducting training and testing activities, including:

(1) *Training.*

(i) Air warfare;

(ii) Electronic warfare; and

(iii) Surface warfare.

(2) *Testing.*

(i) Air warfare;

(ii) Electronic warfare; and

(iii) Surface warfare.

§ 218.11 Effective dates.

Regulations in this subpart are effective from October 31, 2021, through October 30, 2028.

§ 218.12 Permissible methods of taking.

(a) Under an LOA issued pursuant to §§ 216.106 of this chapter and § 218.16, the Holder of the LOA (hereinafter ''Navy'') may incidentally, but not intentionally, take marine mammals within the area described in § 218.10(b) by Level A harassment and Level B harassment associated with the use of explosives and missile launch activities, provided the activity is in compliance with all terms, conditions, and requirements of the regulations in this subpart and the applicable LOA.

(b) The incidental take of marine mammals by the activities listed in § 218.10(c) is limited to the species and stocks listed in Table 1 of this section.

TABLE 1 TO § 218.12(b)

Common name	Scientific name	Stock
Blue whale	*Balaenoptera musculus*	Eastern North Pacific.
Fin whale	*Balaenoptera physalus*	California, Oregon, and Washington.
Gray whale	*Eschrichtius robustus*	Eastern North Pacific.
Humpback whale	*Megaptera novaeangliae*	California, Oregon, Washington.
Minke whale	*Balaenoptera acutorostrata*	California, Oregon, and Washington.
Common Bottlenose dolphin	*Tursiops truncatus*	California, Oregon, and Washington Offshore.
Dall's porpoise	*Phocoenoides dalli*	California, Oregon, and Washington.
Dwarf sperm whale	*Kogia sima*	California, Oregon, and Washington.
Long-beaked common dolphin	*Delphinus capensis*	California.
Mesoplodont beaked whales [4]	*Mesoplodon spp*	California, Oregon, and Washington.
Northern right whale dolphin	*Lissodelphis borealis*	California, Oregon, and Washington.
Pacific white-sided dolphin	*Lagenorhynchus obliquidens*	California, Oregon, and Washington.
Pygmy killer whale	*Feresa attenuata.*	
Pygmy sperm whale	*Kogia breviceps*	California, Oregon, and Washington.
Risso's dolphins	*Grampus griseus*	California, Oregon, and Washington.
Short-beaked common dolphin	*Delphinus delphis*	California, Oregon, and Washington.
Sperm whale	*Physeter macrocephalus*	California, Oregon, and Washington.
Striped dolphin	*Stenella coeruleoalba*	California, Oregon, and Washington.
Harbor seal	*Phoca vitulina*	California.
Northern elephant seal	*Mirounga angustirostris*	California.
California sea lion	*Zalophus californianus*	U.S. Stock.
Guadalupe fur seal	*Arctocephalus townsendi*	Mexico to California.

§ 218.13 Prohibitions.

Notwithstanding incidental takings contemplated in § 218.12(a) and authorized by an LOA issued under §§ 216.106 of this chapter and 218.16, no person in connection with the activities listed in § 218.10(c) may:

(a) Violate, or fail to comply with, the terms, conditions, and requirements of this subpart or an LOA issued under §§ 216.106 of this chapter and 218.16;

(b) Take any marine mammal not specified in § 218.12(b);

(c) Take any marine mammal specified in § 218.12(b) in any manner other than as specified in the LOA issued under §§ 216.106 of this chapter and 218.16;

(d) Take a marine mammal specified in § 218.12(b) if NMFS determines such taking results in more than a negligible impact on the species or stock of such marine mammal.

§ 218.14 Mitigation requirements.

When conducting the activities identified in § 218.10(c), the mitigation measures contained in any LOA issued under §§ 216.106 of this chapter and 218.16 must be implemented. These mitigation measures include, but are not limited to:

(a) *Procedural mitigation.* Procedural mitigation is mitigation that the Navy must implement whenever and wherever an applicable training or testing activity takes place within the PMSR Study Area for each applicable activity category or stressor category and includes acoustic stressors (*i.e.,* weapons firing noise), explosive stressors (*i.e.,* medium-caliber and large-caliber projectiles, missiles and rockets, bombs), and physical disturbance and strike stressors *(i.e.,* vessel movement; towed in-water devices; small-, medium-, and large-caliber non-explosive practice munitions; non-explosive missiles and rockets; and non-explosive bombs).

(1) *Environmental awareness and education.* Appropriate Navy personnel (including civilian personnel) involved in mitigation and training or testing reporting under the specified activities will complete one or more modules of the U.S Navy Afloat Environmental Compliance Training Series, as identified in their career path training

plan. Modules include: Introduction to the U.S. Navy Afloat Environmental Compliance Training Series, Marine Species Awareness Training; and U.S. Navy Protective Measures Assessment Protocol.

(2) *Weapons firing noise.* Weapons firing noise associated with large-caliber gunnery activities.

(i) *Number of Lookouts and observation platform.* One Lookout must be positioned on the ship conducting the firing. Depending on the activity, the Lookout could be the same as the one provided for under ''Small-, medium-, and large-caliber non-explosive practice munitions'' in paragraph (a)(7)(i) of this section.

(ii) *Mitigation zone and requirements.* The mitigation zone must be thirty degrees on either side of the firing line out to 70 yd from the muzzle of the weapon being fired.

(A) *Prior to the initial start of the activity.* Navy personnel must observe the mitigation zone for floating vegetation and marine mammals; if floating vegetation or marine mammals are observed, Navy personnel must relocate or delay the start of weapons firing.

(B) *During the activity.* Navy personnel must observe the mitigation zone for floating vegetation and marine mammals; if floating vegetation or marine mammals are observed, Navy personnel must cease weapons firing.

(C) *Commencement/recommencement conditions after a marine mammal sighting before or during the activity.* Navy personnel must allow a sighted marine mammal to leave the mitigation zone prior to the initial start of the activity (by delaying the start) or during the activity (by not recommencing weapons firing) until one of the following conditions has been met: The animal is observed exiting the mitigation zone; the animal is thought to have exited the mitigation zone based on a determination of its course, speed, and movement relative to the firing ship; the mitigation zone has been clear from any additional sightings for 30 minutes (min); or for mobile activities, the firing ship has transited a distance equal to double that of the mitigation zone size beyond the location of the last sighting.

(3) *Explosive medium-caliber and large-caliber projectiles.* Gunnery activities using explosive medium-caliber and large-caliber projectiles. Mitigation applies to activities using a surface target.

(i) *Number of Lookouts and observation platform.* One Lookout must be on the vessel or aircraft conducting the activity. For activities using explosive large-caliber projectiles, depending on the activity, the Lookout could be the same as the one described in ''Weapons firing noise'' in paragraph (a)(2)(i) of this section. If additional platforms are participating in the activity, Navy personnel positioned on those assets (*e.g.,* safety observers, evaluators) must support observing the relevant mitigation zone for marine mammals and other applicable biological resources while performing their regular duties.

(ii) *Mitigation zone and requirements.* The relevant mitigation zones are as follows: 200 yd (182.88 m) around the intended impact location for air-to-surface activities using explosive medium-caliber projectiles; 600 yd (548.64 m) around the intended impact location for surface-to-surface activities using explosive medium-caliber projectiles; and 1,000 yd (914.4 m) around the intended impact location for surface-to-surface activities using explosive large-caliber projectiles.

(A) *Prior to the initial start of the activity* (*e.g.,* when maneuvering on station). Navy personnel must observe the mitigation zone for floating vegetation and marine mammals; if floating vegetation or marine mammals are observed, Navy personnel must relocate or delay the start of firing.

(B) *During the activity.* Navy personnel must observe the mitigation zone for floating vegetation and marine mammals; if floating vegetation or marine mammals are observed, Navy personnel must cease firing.

(C) *Commencement/recommencement conditions after a marine mammal sighting before or during the activity.* Navy personnel must allow a sighted marine mammal to leave the mitigation zone prior to the initial start of the activity (by delaying the start) or during the activity (by not recommencing firing) until one of the following conditions has been met: The animal is observed exiting the mitigation zone; the animal is thought to have exited the mitigation zone based on a determination of its course, speed, and movement relative to the intended impact location; the mitigation zone has been clear from any additional sightings for 10 min for aircraft-based firing or 30 min for vessel-based firing; or for activities using mobile targets, the intended impact location has transited a distance equal to double that of the mitigation zone size beyond the location of the last sighting.

(D) *After completion of the activity (e.g., prior to maneuvering off station).* Navy personnel must, when practical (*e.g.,* when platforms are not constrained by fuel restrictions or mission-essential follow-on commitments), observe for marine mammals in the vicinity of where detonations occurred; if any injured or dead marine mammals are observed, Navy personnel must follow established incident reporting procedures. If additional platforms are supporting this activity (*e.g.,* providing range clearance), Navy personnel on these assets must assist in the visual observation of the area where detonations occurred.

(4) *Explosive missiles and rockets.* Aircraft-deployed explosive missiles and rockets. Mitigation applies to activities using a maritime surface target at ranges up to 75 nmi.

(i) *Number of Lookouts and observation platform.* One Lookout must be positioned in an aircraft. If additional platforms are participating in the activity, Navy personnel positioned on those assets (*e.g.,* safety observers, evaluators) must support observing the relevant mitigation zone for marine mammals and other applicable biological resources while performing their regular duties.

(ii) *Mitigation zone and requirements.* The relevant mitigation zones are as follows: 900 yd (822.96 m) around the intended impact location for missiles or rockets with 0.6–20 lb net explosive weight; and 2,000 yd (1,828.8 m) around the intended impact location for missiles with 21–500 lb net explosive weight.

(A) *Prior to the initial start of the activity* (*e.g.,* during a fly-over of the mitigation zone). Navy personnel must observe the mitigation zone for floating vegetation and marine mammals; if floating vegetation or marine mammals are observed, Navy personnel must relocate or delay the start of firing.

(B) *During the activity.* Navy personnel must observe the mitigation zone for floating vegetation and marine mammals; if floating vegetation or marine mammals are observed, Navy personnel must cease firing.

(C) *Commencement/recommencement conditions after a marine mammal sighting before or during the activity.* Navy personnel must allow a sighted marine mammal to leave the mitigation zone prior to the initial start of the activity (by delaying the start) or during the activity (by not recommencing firing) until one of the following conditions has been met: The animal is observed exiting the mitigation zone; the animal is thought to have exited the mitigation zone based on a determination of its course, speed, and movement relative to the intended impact location; or the mitigation zone has been clear from any additional sightings for 10 min when the activity

involves aircraft that have fuel constraints, or 30 min when the activity involves aircraft that are not typically fuel constrained.

(D) *After completion of the activity* (*e.g.,* prior to maneuvering off station). Navy personnel must, when practical (*e.g.,* when platforms are not constrained by fuel restrictions or mission-essential follow-on commitments), observe for marine mammals in the vicinity of where detonations occurred; if any injured or dead marine mammals are observed, Navy personnel must follow established incident reporting procedures. If additional platforms are supporting this activity (*e.g.,* providing range clearance), Navy personnel on these assets will assist in the visual observation of the area where detonations occurred.

(5) *Explosive bombs.*

(i) *Number of Lookouts and observation platform.* One Lookout must be positioned in an aircraft conducting the activity. If additional platforms are participating in the activity, Navy personnel positioned on those assets (*e.g.,* safety observers, evaluators) must support observing the relevant mitigation zone for marine mammals and other applicable biological resources while performing their regular duties.

(ii) *Mitigation zone and requirements.* The relevant mitigation zones is 2,500 yd (2,286 m) around the intended target.

(A) *Prior to the initial start of the activity (e.g., when arriving on station).* Navy personnel must observe the mitigation zone for floating vegetation and marine mammals; if floating vegetation or marine mammals are observed, Navy personnel must relocate or delay the start of bomb deployment.

(B) *During the activity (e.g., during target approach).* Navy personnel must observe the mitigation zone for floating vegetation and marine mammals; if floating vegetation or marine mammals are observed, Navy personnel must cease bomb deployment.

(C) *Commencement/recommencement conditions after a marine mammal sighting before or during the activity.* Navy personnel must allow a sighted marine mammal to leave the mitigation zone prior to the initial start of the activity (by delaying the start) or during the activity (by not recommencing bomb deployment) until one of the following conditions has been met: The animal is observed exiting the mitigation zone; the animal is thought to have exited the mitigation zone based on a determination of its course, speed, and movement relative to the intended target; the mitigation zone has been clear from any additional sightings for 10 min; or for activities using mobile targets, the intended target has transited a distance equal to double that of the mitigation zone size beyond the location of the last sighting.

(D) *After completion of the activity (e.g., prior to maneuvering off station).* Navy personnel must, when practical (*e.g.,* when platforms are not constrained by fuel restrictions or mission-essential follow-on commitments), observe for marine mammals in the vicinity of where detonations occurred; if any injured or dead marine mammals are observed, Navy personnel must follow established incident reporting procedures. If additional platforms are supporting this activity (*e.g.,* providing range clearance), Navy personnel on these assets must assist in the visual observation of the area where detonations occurred.

(6) *Vessel movement.* The mitigation will not be required if: The vessel's safety is threatened; the vessel is restricted in its ability to maneuver (*e.g.,* during launching and recovery of aircraft or landing craft, during towing activities, when mooring); the vessel is submerged or operated autonomously; or if impracticable based on mission requirements (*e.g.,* during Amphibious Assault and Amphibious Raid exercises).

(i) *Number of Lookouts and observation platform.* One Lookout must be on the vessel that is underway.

(ii) *Mitigation zone and requirements.* The relevant mitigation zones are as follows: 500 yd (457.2 m) around whales; and 200 yd (182.88 m) around all other marine mammals (except bow-riding dolphins and pinnipeds hauled out on man-made navigational structures, port structures, and vessels).

(A) *During the activity.* When underway Navy personnel must observe the mitigation zone for marine mammals; if marine mammals are observed, Navy personnel must maneuver to maintain distance.

(B) [Reserved]

(iii) *Reporting.* If a marine mammal vessel strike occurs, Navy personnel must follow the established incident reporting procedures.

(7) *Small-, medium-, and large-caliber non-explosive practice munitions.* Mitigation applies to activities using a surface target.

(i) *Number of Lookouts and observation platform.* One Lookout must be positioned on the platform conducting the activity. Depending on the activity, the Lookout could be the same as the one described for ''Weapons firing noise'' in paragraph (a)(2)(i) of this section.

(ii) *Mitigation zone and requirements.* The relevant mitigation zone is 200 yd (182.88 m) around the intended impact location.

(A) *Prior to the initial start of the activity* (*e.g.,* when maneuvering on station). Navy personnel must observe the mitigation zone for floating vegetation and marine mammals; if floating vegetation or marine mammals are observed, Navy personnel must relocate or delay the start of firing.

(B) *During the activity.* Navy personnel must observe the mitigation zone for floating vegetation and marine mammals; if floating vegetation or marine mammals are observed, Navy personnel must cease firing.

(C) *Commencement/recommencement conditions after a marine mammal sighting before or during the activity.* Navy personnel must allow a sighted marine mammal to leave the mitigation zone prior to the initial start of the activity (by delaying the start) or during the activity (by not recommencing firing) until one of the following conditions has been met: The animal is observed exiting the mitigation zone; the animal is thought to have exited the mitigation zone based on a determination of its course, speed, and movement relative to the intended impact location; the mitigation zone has been clear from any additional sightings for 10 min for aircraft-based firing or 30 min for vessel-based firing; or for activities using a mobile target, the intended impact location has transited a distance equal to double that of the mitigation zone size beyond the location of the last sighting.

(8) *Non-explosive missiles and rockets.* Aircraft-deployed non-explosive missiles and rockets. Mitigation applies to activities using a maritime surface target at ranges of up to 75 nmi.

(i) *Number of Lookouts and observation platform.* One Lookout must be positioned in an aircraft.

(ii) *Mitigation zone and requirements.* The relevant mitigation zone is 900 yd (822.96 m) around the intended impact location.

(A) *Prior to the initial start of the activity (e.g., during a fly-over of the mitigation zone).* Navy personnel must observe the mitigation zone for floating vegetation and marine mammals; if floating vegetation or marine mammals are observed, Navy personnel must relocate or delay the start of firing.

(B) *During the activity.* Navy personnel must observe the mitigation zone for floating vegetation and marine mammals; if floating vegetation or marine mammals are observed, Navy personnel must cease firing.

(C) *Commencement/recommencement conditions after a marine mammal sighting prior to or during the activity.* Navy personnel must allow a sighted marine mammal to leave the mitigation zone prior to the initial start of the activity (by delaying the start) or during the activity (by not recommencing firing) until one of the following conditions has been met: The animal is observed exiting the mitigation zone; the animal is thought to have exited the mitigation zone based on a determination of its course, speed, and movement relative to the intended impact location; or the mitigation zone has been clear from any additional sightings for 10 min when the activity involves aircraft that have fuel constraints, or 30 min when the activity involves aircraft that are not typically fuel constrained.

(9) *Non-explosive bombs.* Non-explosive bombs.

(i) *Number of Lookouts and observation platform.* One Lookout must be positioned in an aircraft.

(ii) *Mitigation zone and requirements.* The relevant mitigation zone is 900 yd (822.96 m) around the intended target.

(A) *Prior to the initial start of the activity (e.g., when arriving on station).* Navy personnel must observe the mitigation zone for floating vegetation and marine mammals; if floating vegetation or marine mammals are observed, Navy personnel must relocate or delay the start of bomb deployment.

(B) *During the activity (e.g., during approach of the target or intended minefield location).* Navy personnel must observe the mitigation zone for floating vegetation and marine mammals and, if floating vegetation or marine mammals are observed, Navy personnel must cease bomb deployment.

(C) *Commencement/recommencement conditions after a marine mammal sighting prior to or during the activity.* Navy personnel must allow a sighted marine mammal to leave the mitigation zone prior to the initial start of the activity (by delaying the start) or during the activity (by not recommencing bomb deployment) until one of the following conditions has been met: The animal is observed exiting the mitigation zone; the animal is thought to have exited the mitigation zone based on a determination of its course, speed, and movement relative to the intended target or minefield location; the mitigation zone has been clear from any additional sightings for 10 min; or for activities using mobile targets, the intended target has transited a distance equal to double that of the mitigation zone size beyond the location of the last sighting.

(10) *Target and Missile Launches from San Nicolas Islands (SNI).* Target and missile launch activities from SNI.

(i) *Mitigation zone and requirements.* 305 m (1,000 ft) over pinniped haulouts. Missiles must not cross over pinniped haulouts at elevations less than 305 m (1,000 ft) above the haulout. All manned aircraft and helicopter flight paths must maintain a minimum distance of 305 m (1,000 ft) from recognized seal haulouts and rookeries, except in emergencies or for real-time security incidents. For unmanned aircraft systems (UAS), the following minimum altitudes must be maintained over pinniped haulout areas and rookeries: Class 0–2 UAS must maintain a minimum altitude of 300 ft; Class 3 UAS must maintain a minimum altitude of 500 ft; Class 4 or 5 UAS must not be flown below 1,000 ft.

(A) *Pinniped haulouts.* Navy personnel must not enter pinniped haulouts or rookeries. Personnel may be adjacent to pinniped haulouts and rookeries prior to and following a launch for monitoring purposes.

(B) *Number of Launch events.* Navy must not conduct more than 40 launch events annually. Up to 10 launch events of the 40 annual launch events may occur at night.

(C) *Launches during the peak pinniped pupping season.* Launches must be scheduled to avoid peak pinniped pupping periods between January and July, to the maximum extent practicable.

(D) *Unauthorized species.* If a species for which authorization has not been granted is taken, or a species for which authorization has been granted but the authorized takes are met, the Navy must consult with NMFS to determine how to proceed.

(E) *Review of launch procedures.* The Navy must review the launch procedure and monitoring methods, in cooperation with NMFS, if any incidents of injury or mortality of a pinniped are discovered during post-launch surveys, or if surveys indicate possible effects to the distribution, size, or productivity of the affected pinniped populations as a result of the specified activities. If necessary, appropriate changes must be made through modification to this LOA prior to conducting the next launch of the same vehicle.

(ii) [Reserved]

(b) *Seasonal awareness messages.* In addition to procedural mitigation, Navy personnel must implement seasonal awareness notification messages throughout the PMSR Study Area to avoid interaction with large whales during transit.

(1) *Blue Whale Awareness Notification Message.*

(i) Navy personnel must issue a seasonal awareness notification message to alert Navy ships and aircraft operating throughout the PMSR Study Area to the possible presence of increased concentrations of blue whales June 1 through October 31.

(ii) To maintain safety of navigation and to avoid interactions with large whales during transits, Navy personnel must instruct vessels to remain vigilant to the presence of blue whales that, when concentrated seasonally, may become vulnerable to vessel strikes.

(iii) Navy personnel must use the information from the awareness notification message to assist their visual observation of applicable mitigation zones during training and testing activities and to aid in the implementation of procedural mitigation.

(2) *Gray Whale Awareness Notification Message.*

(i) Navy personnel must issue a seasonal awareness notification message to alert Navy ships and aircraft operating through the PMSR Study Area to the possible presence of increased concentrations of gray whales November 1 through March 31.

(ii) To maintain safety of navigation and to avoid interactions with large whales during transits, Navy personnel must instruct vessels to remain vigilant to the presence of gray whales that, when concentrated seasonally, may become vulnerable to vessel strikes.

(iii) Navy personnel must use the information from the awareness notification message to assist their visual observation of applicable mitigation zones during training and testing activities and to aid in the implementation of procedural mitigation.

(3) *Fin Whale Awareness Notification Message.*

(i) Navy personnel must issue a seasonal awareness notification message to alert Navy ships and aircraft operating throughout the PMSR Study Area to the possible presence of increased concentrations of fin whales November 1 through May 31.

(ii) To maintain safety of navigation and to avoid interactions with large whales during transits, Navy personnel must instruct vessels to remain vigilant to the presence of fin whales that, when concentrated seasonally, may become vulnerable to vessel strikes.

(iii) Navy personnel must use the information from the awareness notification message to assist their visual observation of applicable mitigation zones during training and testing activities and to aid in the

implementation of procedural mitigation.

§ 218.15 Requirements for monitoring and reporting.

(a) *Unauthorized take.* Navy personnel must notify NMFS immediately (or as soon as operational security considerations allow) if the specified activity identified in § 218.10 is thought to have resulted in the serious injury or mortality of any marine mammals, or in any Level A harassment or Level B harassment of marine mammals not identified in this subpart.

(b) *Monitoring and reporting under the LOA.* The Navy must conduct all monitoring and reporting required under the LOA. The Navy will coordinate and discuss with NMFS how monitoring in the PMSR Study Area could contribute to the Navy's Marine Species Monitoring Program.

(c) *Notification of injured, live stranded, or dead marine mammals.* Navy personnel must consult the Notification and Reporting Plan, which sets out notification, reporting, and other requirements when dead, injured, or live stranded marine mammals are detected. The Notification and Reporting Plan is available at *https://www.fisheries.noaa.gov/action/incidental-take-authorization-us-navy-testing-and-training-activities-point-mugu-sea-range.*

(d) *Pinniped Monitoring Plan on SNI.* In consultation with NMFS, the Navy will implement a monitoring plan for beaches exposed to missile launch noise with the goal of assessing baseline pinniped distribution/abundance and potential changes in pinniped use of these beaches after launch events. Marine mammal monitoring shall include multiple surveys (*e.g.* time-lapse photography) during the year that record the species, number of animals, general behavior, presence of pups, age class, gender and reactions to launch noise or other natural or human caused disturbances, in addition to environmental conditions that may include tide, wind speed, air temperature, and swell. In addition, video and acoustic monitoring of up to three pinniped haulout areas and rookeries must be conducted during launch events that include missiles or targets that have not been previously monitored using video and acoustic recorders for at least three launch events.

(e) *Annual Pinniped Monitoring Report on SNI.* The Navy must submit an annual report to NMFS of the SNI rocket and missile launch activities. The draft annual monitoring report must be submitted to the Director, Office of Protected Resources, NMFS, within three months after the end of the calendar year. NMFS will submit comments or questions on the draft monitoring report, if any, within three months of receipt. The report will be considered final after the Navy has addressed NMFS' comments, or three months after the submission of the draft if NMFS does not provide comments on the draft report. The report will summarize the launch events conducted during the year; assess any direct impacts to pinnipeds from launch events; assess any cumulative impacts on pinnipeds from launch events; and, summarize pinniped monitoring and research activities conducted on SNI and any findings related to effects of launch noise on pinniped populations.

(f) *Annual PMSR Study Area Training and Testing Activity Report.* Each year, the Navy must submit a detailed report PMSR (Annual Training and Testing Activity Report) to the Director, Office of Protected Resources, NMFS, within three months after the one-year anniversary of the date of issuance of the LOA. NMFS will submit comments or questions on the report, if any, within one month of receipt. The report will be considered final after the Navy has addressed NMFS' comments, or one month after submission of the draft if NMFS does not provide comments on the draft report. The annual report will contain information on all sound sources used (total hours or quantity of each bin; total annual number of each type of explosive events; and total annual expended/detonated rounds (missiles, bombs, etc.) for each explosive bin). The annual report will also contain both the current year's data as well as explosive use quantity from previous years' reports. Additionally, if there were any changes to the explosive allowance in a given year, or cumulatively, the report will include a discussion of why the change was made and include analysis to support how the change did or did not affect the analysis in the 2021 PMSR FEIS/OEIS and MMPA final rule. The annual report will also include the details regarding specific requirements associated with monitoring on SNI. The final annual/close-out report at the conclusion of the authorization period (year seven) will serve as the comprehensive close-out report and include both the final year annual use compared to annual authorization as well as a cumulative seven-year annual use compared to seven-year authorization. The detailed reports must contain the information identified in paragraphs (e)(1) through (6) of this section.

(1) *Explosives.* This section of the report must include the following information for explosive activities completed that year.

(i) Activity information gathered for each explosive event.

(A) Location by Special Use Airspace (*e.g.,* Warning Area).

(B) Date and time exercise began and ended.

(C) Total hours of observation by Lookouts before, during, and after exercise.

(D) Total annual expended/detonated ordnance (*i.e.,* missile, bombs etc.) number and types of explosive source bins detonated.

(E) Wave height in feet (high, low, and average) during exercise.

(F) Narrative description of sensors and platforms utilized for marine mammal detection and timeline illustrating how marine mammal detection was conducted.

(ii) Individual marine mammal observation (by Navy Lookouts) information for each sighting where mitigation was implemented.

(A) Date/Time/Location of sighting.

(B) Species (if not possible, indicate whale or dolphin).

(C) Number of individuals.

(D) Initial detection sensor (*e.g.,* sonar or Lookout).

(E) Length of time observers maintained visual contact with marine mammal.

(F) Sea state.

(G) Visibility.

(H) Whether sighting was before, during, or after detonations/exercise, and how many minutes before or after.

(I) Distance of marine mammal from actual detonations (or target spot if not yet detonated): Less than 200 yd, 200 to 500 yd, 500 to 1,000 yd, 1,000 to 2,000 yd, or greater than 2,000 yd.

(J) Lookouts must report, in plain language and without trying to categorize in any way, the observed behavior of the animal(s) (such as animal closing to bow ride, paralleling course/speed, floating on surface and not swimming etc.), including speed and direction and if any calves were present.

(K) The report must indicate whether explosive detonations were delayed, ceased, modified, or not modified due to marine mammal presence and for how long.

(L) If observation occurred while explosives were detonating in the water, indicate munition type in use at time of marine mammal detection.

(2) *Summary of sources used.* This section of the report must include the following information summarized from the authorized sound sources used in all training and testing events:

(i) Total annual quantity (per the LOA) of each explosive bin; and

(ii) Total annual expended/detonated ordnance (missiles, bombs, etc.) for each explosive bin.

(h) *Final Close-Out Report.* The final (year seven) draft annual/close-out report must be submitted within three months after the expiration of this subpart to the Director, Office of Protected Resources, NMFS. NMFS must submit comments on the draft close-out report, if any, within three months of receipt. The report will be considered final after the Navy has addressed NMFS' comments, or three months after the submittal of the draft if NMFS does not provide comments.

§ 218.16 Letters of Authorization.

(a) To incidentally take marine mammals pursuant to the regulations in this subpart, the Navy must apply for and obtain an LOA in accordance with § 216.106 of this chapter.

(b) An LOA, unless suspended or revoked, may be effective for a period of time not to exceed between October 31, 2021, and October 30, 2028.

(c) If an LOA expires prior to October 30, 2028, the Navy may apply for and obtain a renewal of the LOA.

(d) In the event of projected changes to the activity or to mitigation, monitoring, or reporting (excluding changes made pursuant to the adaptive management provision of § 218.17(c)(1)) required by an LOA issued under this subpart, the Navy must apply for and obtain a modification of the LOA as described in § 218.17.

(e) Each LOA will set forth:

(1) Permissible methods of incidental taking;

(2) Geographic areas for incidental taking;

(3) Means of effecting the least practicable adverse impact (*i.e.,* mitigation) on the species or stocks of marine mammals and their habitat; and

(4) Requirements for monitoring and reporting.

(f) Issuance of the LOA(s) must be based on a determination that the level of taking is consistent with the findings made for the total taking allowable under the regulations in this subpart.

(g) Notice of issuance or denial of the LOA(s) will be published in the **Federal Register** within 30 days of a determination.

§ 218.17 Renewals and modifications of Letters of Authorization.

(a) An LOA issued under §§ 216.106 of this chapter and 218.16 for the activity identified in § 218.10(c) may be renewed or modified upon request by the applicant, provided that:

(1) The proposed specified activity and mitigation, monitoring, and reporting measures, as well as the anticipated impacts, are the same as those described and analyzed for the regulations in this subpart (excluding changes made pursuant to the adaptive management provision in paragraph (c)(1) of this section); and

(2) NMFS determines that the mitigation, monitoring, and reporting measures required by the previous LOA(s) were implemented.

(b) For LOA modification or renewal requests by the applicant that include changes to the activity or to the mitigation, monitoring, or reporting measures (excluding changes made pursuant to the adaptive management provision in paragraph (c)(1) of this section) that do not change the findings made for the regulations or result in no more than a minor change in the total estimated number of takes (or distribution by species or years), NMFS may publish a notice of proposed LOA in the **Federal Register**, including the associated analysis of the change, and solicit public comment before issuing the LOA.

(c) An LOA issued under §§ 216.106 of this chapter and 218.16 may be modified by NMFS under the following circumstances:

(1) *Adaptive management.* After consulting with the Navy regarding the practicability of the modifications, NMFS may modify (including adding or removing measures) the existing mitigation, monitoring, or reporting measures if doing so creates a reasonable likelihood of more effectively accomplishing the goals of the mitigation and monitoring.

(i) Possible sources of data that could contribute to the decision to modify the mitigation, monitoring, or reporting measures in an LOA include:

(A) Results from the Navy's annual monitoring report and annual exercise report from the previous year(s);

(B) Results from other marine mammal and/or sound research or studies;

(C) Results from specific stranding investigations; or

(D) Any information that reveals marine mammals may have been taken in a manner, extent, or number not authorized by the regulations in this subpart or subsequent LOAs.

(ii) If, through adaptive management, the modifications to the mitigation, monitoring, or reporting measures are substantial, NMFS will publish a notice of a new proposed LOA in the **Federal Register** and solicit public comment.

(2) *Emergencies.* If NMFS determines that an emergency exists that poses a significant risk to the well-being of the species of marine mammals specified in LOAs issued pursuant to §§ 216.106 of this chapter and 218.16, an LOA may be modified without prior notice or opportunity for public comment. Notice will be published in the **Federal Register** within thirty days of the action.

§ 218.18 [Reserved]

§ 218.19 [Reserved]

[FR Doc. 2021–14542 Filed 7–15–21; 8:45 am]

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Part III

Department of the Interior

Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting; Final 2021–22 Frameworks for Migratory Bird Hunting Regulations, and Special Procedures for Issuance of Annual Hunting Regulations; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

[Docket No. FWS–HQ–MB–2020–0032; FF09M22000–212–FXMB1231099BPP0]

RIN 1018–BE34

Migratory Bird Hunting; Final 2021–22 Frameworks for Migratory Bird Hunting Regulations, and Special Procedures for Issuance of Annual Hunting Regulations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service or we) is establishing the final frameworks from which States may select season dates, limits, and other options for the 2021–22 migratory game bird hunting season, and making a minor change to the special procedures for issuance of annual hunting regulations. We annually prescribe outside limits, frameworks, within which States may select hunting seasons. Frameworks specify the outside dates, season lengths, shooting hours, bag and possession limits, and areas where migratory game bird hunting may occur. These frameworks are necessary to allow State selections of seasons and limits and to allow harvest at levels compatible with migratory game bird population status and habitat conditions. Migratory game bird hunting seasons provide opportunities for recreation and sustenance, and aid Federal, State, and Tribal governments in the management of migratory game birds.

DATES: This rule takes effect on July 16, 2021.

ADDRESSES: States should send their season selections to: Chief, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, MS: MB, 5275 Leesburg Pike, Falls Church, VA 22041–3803. You may inspect comments received on the migratory bird hunting regulations at *http://www.regulations.gov* at Docket No. FWS–HQ–MB–2020–0032. You may obtain copies of referenced reports from the street address above, or from the Division of Migratory Bird Management's website at *http://www.fws.gov/migratorybirds/,* or at *http://www.regulations.gov* at Docket No. FWS–HQ–MB–2020–0032.

FOR FURTHER INFORMATION CONTACT: Jerome Ford, U.S. Fish and Wildlife Service, Department of the Interior, (202) 208–1050.

SUPPLEMENTARY INFORMATION: The process for promulgating annual regulations for the hunting of migratory game birds involves the publication of a series of proposed and final rulemaking documents. In this final rule, in addition to our normal procedure of setting forth frameworks for the annual hunting regulations (described below), we are also making minor changes to the permanent regulations that govern the migratory bird hunting program. The annual regulations are set forth in subpart K of part 20 of the regulations in title 50 of the Code of Federal Regulations (CFR). In this document, we also make minor changes to subpart N of 50 CFR part 20, as follows:

Changes to Regulations at 50 CFR Part 20 (Subpart N)

The regulations governing special procedures for issuance of annual hunting regulations are at 50 CFR part 20, subpart N. The rules of subpart N apply only to subpart K regarding the issuance of the annual regulations establishing seasons, bag limits, and other requirements for the seasonal hunting of migratory birds.

In subpart N, the current regulations require that the Service publish a notice of meetings of the Service's Regulations Committee and the Flyway Councils in the process of developing frameworks for migratory bird hunting seasons. Specifically, notice of each meeting of the Regulations Committee and Flyway Council to be attended by any official of the Department of the Interior will be published in the **Federal Register** at least 2 weeks before the meeting or as soon as practicable after the Service learns of the Flyway Council meeting.

In addition to or in place of publishing a meeting notice in the **Federal Register**, we add posting on the Service's Migratory Bird Program website as a method to notify the public of these meetings. We are making this change because it will increase our ability to provide more timely information as meeting information becomes available, and more flexibility to inform the public of changes in meeting dates and locations should such changes be necessary. Greater flexibility has become critical when unforeseen exigencies require venue changes for these meetings.

Process for Establishing Annual Migratory Game Bird Hunting Regulations (Subpart K)

As part of the Department of the Interior's retrospective regulatory review, in 2015 we developed a schedule for migratory game bird hunting regulations that is more efficient and establishes hunting season dates earlier than was possible under the previous process. Under the current process, we develop proposed hunting season frameworks for a given year in the fall of the prior year. We then finalize those frameworks a few months later, thereby enabling the State agencies to select and publish their season dates in early summer. We provided a detailed overview of the current process in the August 3, 2017, **Federal Register** (82 FR 36308). This rule is the third in a series of proposed and final rules that establish regulations for the 2021–22 migratory bird hunting season.

Regulations Schedule for 2021

On October 9, 2020, we published in the **Federal Register** (85 FR 64097) a proposal to amend 50 CFR part 20. The proposal provided a background and overview of the migratory bird hunting regulations process, and addressed the establishment of seasons, limits, and other regulations for hunting migratory game birds under §§ 20.101 through 20.107, 20.109, and 20.110 of subpart K. Major steps in the 2021–22 regulatory cycle relating to open public meetings and **Federal Register** notifications were illustrated in the diagram at the end of the October 9, 2020, proposed rule. For this regulatory cycle, we have combined elements of the document that is described in the diagram as Supplemental Proposals with the document that is described as Proposed Season Frameworks.

Further, in the October 9, 2020, proposed rule we explained that all sections of subsequent documents outlining hunting frameworks and guidelines would be organized under numbered headings, which were set forth at 85 FR 64098. This and subsequent documents will refer only to numbered items requiring attention. We will omit those items not requiring attention, and remaining numbered items may be discontinuous and appear incomplete.

We provided the meeting dates and locations for the Service Regulations Committee (SRC) and Flyway Council meetings on Flyway calendars posted on our website at *https://www.fws.gov/birds/management/flyways.php.* We announced the April SRC meeting in the April 9, 2020, **Federal Register** (85 FR 19952). The October 9, 2020, proposed rule provided detailed information on the proposed 2021–22 regulatory schedule and announced the October SRC meeting.

On February 22, 2021, we published in the **Federal Register** (86 FR 10622)

the proposed frameworks for the 2021–22 season migratory bird hunting regulations. We have considered all pertinent comments received through March 24, 2021, which includes comments submitted in response to our October 9 and February 22 proposed rulemaking documents and comments from the October SRC meeting. This document establishes final frameworks for migratory bird hunting regulations for the 2021–22 season and includes no substantive changes from the February 22, 2021, proposed rule except a minor correction (see 4. Canada and Cackling Geese, below). We will publish State selections in the **Federal Register** as amendments to §§ 20.101 through 20.107 and 20.109 of title 50 CFR part 20.

Population Status and Harvest

Each year we publish reports that provide detailed information on the status and harvest of certain migratory game bird species. These reports are available at the address indicated under **FOR FURTHER INFORMATION CONTACT** or from our website at *https://www.fws.gov/birds/surveys-and-data/reports-and-publications/population-status.php.*

We used the following annual reports published in August 2020 in the development of proposed frameworks for the migratory bird hunting regulations: Adaptive Harvest Management, 2021 Hunting Season; American Woodcock Population Status, 2020; Band-tailed Pigeon Population Status, 2020; Migratory Bird Hunting Activity and Harvest During the 2018–19 and 2019–20 Hunting Seasons; Mourning Dove Population Status, 2020; Status and Harvests of Sandhill Cranes, Mid-continent, Rocky Mountain, Lower Colorado River Valley and Eastern Populations, 2020; and Waterfowl Population Status, 2020.

Our long-term objectives continue to include providing opportunities to harvest portions of certain migratory game bird populations and to limit harvests to levels compatible with each population's ability to maintain healthy, viable numbers. Having taken into account the zones of temperature and the distribution, abundance, economic value, breeding habits, and times and lines of flight of migratory birds, we conclude that the hunting seasons provided for herein are compatible with the current status of migratory bird populations and long-term population goals. Additionally, we are obligated to, and do, give serious consideration to all information received during the public comment period.

Review of Public Comments and Flyway Council Recommendations

The preliminary proposed rulemaking, which appeared in the October 9, 2020, **Federal Register**, opened the public comment period for migratory game bird hunting regulations and described the proposed regulatory alternatives for the 2021–22 duck hunting season. Comments and recommendations are summarized below and numbered in the order set forth in the October 9, 2020, proposed rule (see 85 FR 64098).

We received recommendations from all four Flyway Councils at the April and October SRC meetings; all recommendations are from the October meeting unless otherwise noted. Some recommendations supported continuation of last year's frameworks. Due to the comprehensive nature of the annual review of the frameworks performed by the Councils, support for continuation of last year's frameworks is assumed for items for which no recommendations were received. Council recommendations for changes in the frameworks are summarized below. As explained earlier in this document, we have included only the numbered items pertaining to issues for which we received recommendations. Consequently, the issues do not follow in successive numerical order.

General

Written Comments: Several commenters protested the entire migratory bird hunting regulations process, protested the killing of all migratory birds, and questioned the status and habitat data on which the migratory bird hunting regulations are based.

Service Response: As we indicated above under Population Status and Harvest, our long-term objectives continue to include providing opportunities to harvest portions of certain migratory game bird populations and to limit harvests to levels compatible with each population's ability to maintain healthy, viable numbers. Sustaining migratory bird populations and ensuring a variety of sustainable uses, including harvest, is consistent with the guiding principles by which migratory birds are to be managed under the conventions between the United States and several foreign nations for the protection and management of these birds. We have taken into account available information and considered public comments and continue to conclude that the hunting seasons provided for herein are compatible with the current status of migratory bird populations and long-term population goals. In regard to the regulations process, the Flyway Council system of migratory bird management has been a longstanding example of State-Federal cooperative management since its establishment in 1952 in regulation development process and bird population and habitat monitoring. However, as always, we continue to seek new ways to streamline and improve the process and ensure adequate conservation of the resource.

1. Ducks

A. General Harvest Strategy

Council Recommendations: The Atlantic, Mississippi, Central, and Pacific Flyway Councils recommended adoption of the liberal regulatory alternative for their respective flyways.

Service Response: As we stated in the October 9, 2020, proposed rule, we intend to continue use of Adaptive Harvest Management (AHM) to help determine appropriate duck-hunting regulations for the 2021–22 season. AHM is a tool that permits sound resource decisions in the face of uncertain regulatory impacts and provides a mechanism for reducing that uncertainty over time. We use an AHM protocol (decision framework) to evaluate four regulatory alternatives, each with a different expected harvest level, and choose the optimal regulation for duck hunting based on the status and demographics of mallards for the Mississippi, Central, and Pacific Flyways, and based on the status and demographics of a suite of four species (eastern waterfowl) in the Atlantic Flyway (see below, and the earlier referenced report ''Adaptive Harvest Management, 2021 Hunting Season'' for more details). We have specific AHM protocols that guide appropriate bag limits and season lengths for species of special concern, including black ducks, scaup, and pintails, within the general duck season. These protocols use the same outside season dates and lengths as those regulatory alternatives for the 2021–22 general duck season.

For the 2021–22 hunting season, we will continue to use independent optimizations to determine the appropriate regulatory alternative for mallard stocks in the Mississippi, Central, and Pacific Flyways and for eastern waterfowl in the Atlantic Flyway. This means that we will develop regulations for mid-continent mallards, western mallards, and eastern waterfowl independently based on the breeding stock(s) that contributes primarily to each Flyway. We detailed implementation of AHM protocols for

mid-continent and western mallards in the July 24, 2008, **Federal Register** (73 FR 43290), and for eastern waterfowl in the September 21, 2018, **Federal Register** (83 FR 47868).

We also stated in the October 9, 2020, proposed rule, that the coronavirus pandemic prevented the Service and their partners from performing the Waterfowl Breeding Population and Habitat Survey (WBPHS) and estimating waterfowl breeding abundances and habitat conditions in the spring of 2020. As a result, AHM protocols have been adjusted to inform decisions on duck hunting regulations based on model predictions of breeding abundances and habitat conditions. In most cases, system models specific to each AHM decision framework have been used to predict breeding abundances from the available information (*e.g.,* 2019 observations). However, for some system state variables (*i.e.,* pond numbers and mean latitude) we have used updated time series models to forecast 2020 values based on the most recent information. These technical adjustments are described in detail in the report entitled ''Adaptive Harvest Management, 2021 Hunting Season'' referenced above under Population Status and Harvest.

Atlantic Flyway

For the Atlantic Flyway, we set duck-hunting regulations based on the status and demographics of a suite of four duck species (eastern waterfowl) in eastern Canada and the Atlantic Flyway States: Green-winged teal, common goldeneye, ring-necked duck, and wood duck. For purposes of the assessment, eastern waterfowl stocks are those breeding in eastern Canada and Maine (Federal WBPHS fixed-wing surveys in strata 51–53, 56, and 62–70, and helicopter plot surveys in strata 51–52, 63–64, 66–68, and 70–72) and in Atlantic Flyway States from New Hampshire south to Virginia (Atlantic Flyway Breeding Waterfowl Survey, AFBWS). Abundance estimates for green-winged teal, ring-necked ducks, and goldeneyes are derived annually by integrating fixed-wing and helicopter survey data from eastern Canada and Maine (WBPHS strata 51–53, 56, and 62–72). Counts of green-winged teal, ring-necked ducks, and goldeneyes in the AFBWS are negligible and therefore excluded from population estimates for those species. Abundance estimates for wood ducks in the Atlantic Flyway (Maine south to Florida) are estimated by integrating data from the AFBWS and the North American Breeding Bird Survey. Counts of wood ducks from the WBPHS are negligible and therefore excluded from population estimates.

For the 2021–22 hunting season, we evaluated alternative harvest regulations for eastern waterfowl using: (1) A management objective of 98 percent of maximum long-term sustainable harvest for eastern waterfowl; (2) the 2021–22 regulatory alternatives; and (3) current stock-specific population models and associated weights. Based on the liberal regulatory alternative selected for the 2020–21 duck hunting season, the 2020 model predictions of 0.35 million green-winged teal, 0.94 million wood ducks, 0.70 million ring-necked ducks, and 0.58 million goldeneyes, the optimal regulation for the Atlantic Flyway is the liberal alternative. Therefore, we concur with the recommendation of the Atlantic Flyway Council regarding selection of the liberal regulatory alternative as described in the October 9, 2020, proposed rule for the 2021–22 season.

The mallard bag limit in the Atlantic Flyway is based on a separate assessment of the harvest potential of eastern mallards (see xi. Other, below, for further discussion on the mallard bag limit in the Atlantic Flyway).

Mississippi and Central Flyways

For the Mississippi and Central Flyways, we set duck-hunting regulations based on the status and demographics of mid-continent mallards and habitat conditions (pond numbers in Prairie Canada). For purposes of the assessment, mid-continent mallards are those breeding in central North America (Federal WBPHS strata 13–18, 20–50, and 75–77), and in Michigan, Minnesota, and Wisconsin (State surveys).

For the 2021–22 hunting season, we evaluated alternative harvest regulations for mid-continent mallards using: (1) A management objective of maximum long-term sustainable harvest; (2) the 2021–22 regulatory alternatives; and (3) current population models and associated weights. Based on a liberal regulatory alternative selected for the 2020–21 hunting season, the 2020 model predictions of 9.07 million mid-continent mallards and 3.40 million ponds in Prairie Canada, the optimal regulation for the Mississippi and Central Flyways is the liberal alternative. Therefore, we concur with the recommendations of the Mississippi and Central Flyway Councils regarding selection of the liberal regulatory alternative as described in the October 9, 2020, proposed rule for the 2021–22 season.

Pacific Flyway

For the Pacific Flyway, we set duck-hunting regulations based on the status and demographics of western mallards. For purposes of the assessment, western mallards consist of two substocks and are those breeding in Alaska and Yukon Territory (Federal WBPHS strata 1–12) and those breeding in the southern Pacific Flyway including California, Oregon, Washington, and British Columbia (State and Provincial surveys) combined.

For the 2021–22 hunting season, we evaluated alternative harvest regulations for western mallards using: (1) A management objective of maximum long-term sustainable harvest; (2) the 2021–22 regulatory alternatives; and (3) the current population model. Based on a liberal regulatory alternative selected for the 2020–21 hunting season, the 2020 model predictions of 0.94 million western mallards in Alaska and the Yukon Territory (0.41 million) and the southern Pacific Flyway (0.53 million), the optimal regulation for the Pacific Flyway is the liberal alternative. Therefore, we concur with the recommendation of the Pacific Flyway Council regarding selection of the liberal regulatory alternative as described in the October 9, 2020, proposed rule for the 2021–22 season.

B. Regulatory Alternatives

Council Recommendations: At the April SRC meeting, the Atlantic, Mississippi, Central, and Pacific Flyway Councils recommended that AHM regulatory alternatives for duck hunting seasons in 2021–22 remain the same as those used in the previous year with one exception that we agreed to in 2020: Moving the opening framework date to 1 week earlier in the restrictive regulatory alternative for the Mississippi and Central Flyways beginning with the 2021–22 season based on their recommendations (85 FR 15870; March 19, 2020). The Central Flyway Council further recommended at the April SRC meeting that the bag limit for male mallards in the moderate and liberal regulatory alternatives for the Central Flyway be increased by one bird, so that the male mallard bag limit would be the same as the overall duck bag limit of six ducks. This recommendation is in opposition to Mississippi Flyway Council's recommendation that AHM regulatory alternatives for duck hunting seasons in 2021–22 remain the same as those used in the previous year with the exception noted above.

Service Response: Consistent with Flyway Council recommendations in April and the Flyway Council

recommendations we earlier adopted in the August 21, 2020, final rule (85 FR 51854) for the 2021–22 duck season, the AHM regulatory alternatives proposed for the Atlantic, Mississippi, Central, and Pacific Flyways in the October 9, 2020, proposed rule (85 FR 64097) will be used for the 2021–22 hunting season. The AHM regulatory alternatives consist only of the maximum season lengths, framework dates, and bag limits for total ducks and mallards. Restrictions for certain species within these frameworks that are not covered by existing harvest strategies will be addressed elsewhere in these frameworks. For those species with specific harvest strategies (pintails, black ducks, and scaup), those strategies will again be used for the 2021–22 hunting season.

Last year, we considered proposals for mid-continent mallard duck regulations from the Central and Mississippi Flyways, which differed in the number of drake mallards in the daily bag limit. The recommendations from the two Councils in April are the same with regard to the bag limit for drake mallards as those we addressed in 2020 (85 FR 51854; August 21, 2020). Since the recommendations have not changed, our decision also has not changed. Because mid-continent mallards are shared between the two Flyways, the two Flyways need to work together to create a suite of regulatory alternatives to which both can agree. Since such an agreement between the flyways has not yet been reached, the Service supports mallard bag limits for the 2021–22 season that are the same as those from the 2020–21 season where the two Councils were last in agreement (*i.e.,* no change).

C. Zones and Split Seasons

Zones and split seasons are ''special regulations'' designed to distribute hunting opportunities and harvests according to temporal, geographic, and demographic variability in waterfowl and other migratory game bird populations. For ducks, States have been allowed the option of dividing their allotted hunting days into two (or in some cases three) segments (splits) to take advantage of species-specific peaks of abundance or to satisfy hunters in different areas who want to hunt during the peak of waterfowl abundance in their area. We discussed and presented guidelines for duck zones and split seasons during 2021–25 seasons in the August 21, 2020, final rule (see 85 FR 51857). Also at that time, based on a Flyway Council recommendation, we extended the deadline for States to select their zone and split-season configurations and to define potential new zone boundaries for the 2021–25 seasons from May 1, 2020, to August 15, 2020.

Council Recommendations: The Atlantic and Mississippi Flyway Councils recommended that States be allowed an additional year to select their zone and split-season configurations and to define potential new zone boundaries for the 2021–25 seasons, and that those selections would remain in effect for 4 years (2022–25). At the April SRC meeting, the Pacific Flyway Council recommended that Alaska be allowed to move their two-segment season option from the Kodiak zone to the Southeast Zone and retain grandfathered status (5 zones and 1 zone with a split season).

Service Response: We agree with the Atlantic and Mississippi Flyway Councils' recommendation to allow States an additional opportunity to select their duck zone and split-season configurations and to define potential new zone boundaries for the 5-year period originally planned for the 2021–25 seasons. This opportunity will apply only to States that have not yet made a change in their zone and split-season configurations for the 2021–25 seasons, and these selections would remain in effect for the 2022–25 seasons. The deadline for States to select their zone and split-season configuration and to define potential new zone boundaries for the 2022–25 seasons was May 1, 2021, but we encourage States to submit their selections and zone boundaries as soon as possible. The guidelines for duck zones and split seasons during 2022–25 seasons will remain the same as those established in the August 21, 2020, final rule (see 85 FR 51857). Any State that selects the new configuration allowed by the Service beginning with the 2021–22 season (*i.e.,* two zones with three segments in each zone) must conduct an evaluation of the impacts of zones and splits on hunter dynamics (*e.g.,* hunter numbers, satisfaction) and harvest.

We are agreeable to allowing States an additional opportunity to select their zone and split-season configurations because some States were planning public input meetings during early spring 2020 to gather additional input prior to making their selection for the 2021–25 seasons. However, due to the coronavirus pandemic, those public meetings were cancelled, so States were unable to gather that input. However, in the future, we expect to adhere to our established guidelines that restrict the frequency of changes in State selection among these configurations to open seasons at the beginning of 5-year intervals. This is necessary to increase our ability to detect the impacts of zones and splits on waterfowl demographics and harvest. Substantial concern remains about the unknown consequences of zones and split seasons on duck populations and harvest redistribution among States and flyways, potential reduced effectiveness of regulations (season length and bag limit) to reduce duck harvest if needed, and the administrative burden associated with changing regulations annually.

After this open period, the next regularly scheduled open season for changes to zone and split-season configurations will be in 2026, for use during the 2026–30 seasons. In order to allow sufficient time for States to solicit public input regarding their selections of zone and split season configurations in 2026, we will reaffirm the criteria during the 2025 season regulations process. At that time, we will notify States that changes to zone and split-season configurations should be provided to the Service by May 1, 2026.

We also agree with the Pacific Flyway Council's recommendation that Alaska be allowed to move their two-segment season option from the Kodiak zone to the Southeast Zone and retain grandfathered status. The current guidelines indicate that only minor (less than a county in size) boundary changes will be allowed for any grandfathered arrangement. Although this is not a boundary change, the transfer of the split to a different, existing zone is simply a reconfiguration of the grandfathered zone and split structure, and the change is expected to have negligible impacts to duck population status and harvest. However, because the intent of zone and split regulations is not to affect harvest distribution, the State of Alaska will be required to provide the Service with an evaluation of impacts to duck harvest and hunter dynamics (*e.g.,* hunter numbers, hunter success, hunter satisfaction, etc.) during the fixed 5-year period it is implemented (*e.g.,* 2021–25 period), and is encouraged to involve a human dimensions specialist in the assessment. This review should assist the Service in ascertaining whether major undesirable changes in harvest occurred or hunter participation improved as a result of the regulation change.

D. Special Seasons/Species Management

i. September Teal Seasons

Because a spring 2020 abundance estimate from the WBPHS for blue-winged teal was not available, we used time series models to predict their

abundance. The predicted estimate was 5.83 million birds. Because this estimate is greater than 4.7 million birds, the teal season guidelines indicate that a 16-day special September teal season with a 6-teal daily bag limit is appropriate for States in the Atlantic, Mississippi, and Central flyways. Further, the guidelines indicate that in Florida, Kentucky, and Tennessee, in lieu of a 16-day special September teal season, a 5-day special September teal-wood duck season with a daily bag limit of 6 birds in the aggregate, of which no more than 2 may be wood ducks, is appropriate. In addition, a 4-day special September teal season with a 6-teal daily bag limit, either immediately before or immediately after the 5-day teal-wood duck season, is appropriate.

Council Recommendations: The Mississippi Flyway Council recommended that Minnesota be allowed to conduct an experimental special September teal season for a 3-year period beginning in 2021 or 2022 following the framework for all other States in the Mississippi Flyway.

Service Response: As we described in the August 28, 2014, **Federal Register** (79 FR 51402), the Flyway Councils and Service completed a thorough assessment of the harvest potential for teal (blue-winged, green-winged, and cinnamon), as well as an assessment of the impacts of current special September seasons on these three species. The assessment indicated that additional hunting opportunity could be provided for teal. Therefore, we supported recommendations from the Atlantic, Mississippi, and Central Flyway Councils to establish new hunting seasons (*e.g.,* September teal seasons in northern States) and expanded hunting opportunities (*e.g.,* season lengths, bag limits) in States with existing teal seasons. Further, we confirmed that we were willing to consider proposals to conduct experimental September teal seasons in northern (production) States if fully evaluated for impacts to teal and nontarget species. We also provided criteria for evaluation of these experimental seasons. Thus, we agree with the Mississippi Flyway Council's recommendation to allow an experimental special September teal season in Minnesota beginning in 2021 or 2022.

We earlier approved a 3-year experimental season in Minnesota beginning in 2014. However, Minnesota opted out of the experiment at that time. The criteria established in 2014 regarding the experimental season and transition to operational status will again apply (see 79 FR 51403, August 28, 2014). In addition, we clarify that criteria for operational status must be met by Minnesota's experimental season results alone, and not in combination with data from other States. We will work with Minnesota to develop an evaluation plan and associated memorandum of agreement (MOA) for this experiment detailing the required sample sizes, decision criteria for the experimental season to become operational, and roles and responsibilities. The plan will consist of a 3-year evaluation of hunter performance (via spy blind studies) with regard to attempt and kill rates on nontarget species during the experimental September teal season.

ii. September Teal-Wood Duck Seasons

Using band-recovery data for birds banded in summer and fall 2019 and harvested during the 2019–20 hunting season, we estimated kill rates for adult male wood ducks in the eastern United States to be 0.112 (rangewide) and 0.119 (northern birds only). These values are below those in which analyses suggest bag limit restrictions may be needed (rangewide = 0.166; northern birds = 0.143). These results, combined with the predicted blue-winged teal estimate reported above indicate a 5-day September teal-wood duck season with a daily bag limit of 6 birds in the aggregate, of which no more than 2 may be wood ducks, is appropriate in Florida, Kentucky, and Tennessee for the 2021–22 season.

iii. Black Ducks

Council Recommendations: The Atlantic and Mississippi Flyway Councils recommended continued use of the AHM protocol for black ducks, and adoption of the moderate regulatory alternative for their respective flyways. The Flyway-specific regulations consist of a daily bag limit of two black ducks and a season length of 60 days.

Service Response: The Service, Atlantic and Mississippi Flyway Councils, and Canada adopted an international AHM protocol for black ducks in 2012 (77 FR 49868; August 17, 2012) whereby we set black duck hunting regulations for the Atlantic and Mississippi Flyways (and Canada) based on the status and demographics of these birds. The AHM protocol clarifies country-specific target harvest levels, and reduces conflicts over regulatory policies.

For the 2021–22 hunting season, we evaluated country-specific alternative harvest regulations using: (1) A management objective of 98 percent of maximum long-term sustainable harvest; (2) country-specific regulatory alternatives; and (3) current population models and associated weights. Based on the moderate regulatory alternative selected for the 2020–21 hunting season and the 2020 model predictions of 0.50 million breeding black ducks and 0.39 million breeding mallards (Federal WBPHS strata 51, 52, 63, 64, 66, 67, 68, 70, 71, and 72; core survey area), the optimal regulation for the Atlantic and Mississippi Flyways is the moderate alternative (and the liberal alternative in Canada). Therefore, we concur with the recommendations of the Atlantic and Mississippi Flyway Councils.

iv. Canvasbacks

Council Recommendations: The Atlantic, Mississippi, Central, and Pacific Flyway Councils recommended adoption of the liberal regulatory alternative for their respective flyways. The Flyway-specific regulations consist of a daily bag limit of two canvasbacks and a season length of 60 days in the Atlantic and Mississippi Flyways, 74 days in the Central Flyway, and 107 days in the Pacific Flyway.

Service Response: As we discussed in the March 28, 2016, **Federal Register** (81 FR 17302), the canvasback harvest strategy that we had relied on until 2015 was not viable under our new regulatory process because it required biological information that was not yet available at the time a decision on season structure needed to be made. We do not yet have a new harvest strategy to propose for use in guiding canvasback harvest management in the future. However, we have worked with technical staff of the four Flyway Councils to develop a decision framework (hereafter, decision support tool) that relies on the best biological information available to develop recommendations for annual canvasback harvest regulations. The decision support tool uses available information (1994–2014) on canvasback breeding population size in Alaska and north-central North America (Federal WBPHS traditional survey area, strata 1–18, 20–50, and 75–77), growth rate, survival, and harvest, and a population model to evaluate alternative harvest regulations based on a management objective of maximum long-term sustainable harvest. The decision support tool calls for a closed season when the population is below 460,000, a 1-bird daily bag limit when the population is between 460,000 and 480,000, and a 2-bird daily bag limit when the population is greater than 480,000. Because abundance estimates were not available from the WBPHS, we used two different methods to predict canvasback abundance during spring 2020. One used a population model

initially developed in the 1990s, and the other used the time series of recent abundances from the WBPHS. Based on the resulting predictions of 550,799 and 671,280 canvasbacks, respectively, for the two approaches, we concur with the recommendations of the four Flyway Councils regarding selection of the liberal regulatory alternative for the 2021–22 season.

v. Pintails

Council Recommendations: The Atlantic, Mississippi, Central, and Pacific Flyway Councils recommended adoption of the liberal regulatory alternative with a 1-pintail daily bag limit for their respective flyways. The Flyway-specific regulations consist of a season length of 60 days in the Atlantic and Mississippi Flyways, 74 days in the Central Flyway, and 107 days in the Pacific Flyway.

Service Response: The Service and four Flyway Councils adopted an AHM protocol for pintail in 2010 (75 FR 44856; July 29, 2010) whereby we set pintail hunting regulations in all four Flyways based on the status and demographics of these birds.

For the 2021–22 hunting season, we evaluated alternative harvest regulations for pintails using: (1) A management objective of maximum long-term sustainable harvest, including a closed-season constraint of 1.75 million birds; (2) the regulatory alternatives; and (3) current population models and associated weights. Based on a liberal regulatory alternative with a 1-bird daily bag limit for the 2020–21 season, and the 2020 model predictions of 2.45 million pintails with the center of the population predicted to occur at a mean latitude of 55.2 degrees (Federal WBPHS traditional survey area, strata 1–18, 20–50, and 75–77), the optimal regulation for all four Flyways is the liberal alternative with a 1-pintail daily bag limit. Therefore, we concur with the recommendations of the four Flyway Councils.

vi. Scaup

Council Recommendations: The Atlantic, Mississippi, Central, and Pacific Flyway Councils recommended adoption of the restrictive regulatory alternative for the 2021–22 season. The Flyway-specific regulations consist of a 60-day season with a 1-bird daily bag limit during 40 consecutive days and a 2-bird daily bag limit during 20 consecutive days in the Atlantic Flyway, a 60-day season with a 2-bird daily bag limit during 45 consecutive days and a 1-bird daily bag limit during 15 consecutive days in the Mississippi Flyway, a 1-bird daily bag limit for 74 days in the Central Flyway (which may have separate segments of 39 days and 35 days), and an 86-day season with a 2-bird daily bag limit in the Pacific Flyway. Also, at the April SRC meeting, the Mississippi Flyway Council recommended that the restrictive regulatory alternative for scaup in the Mississippi Flyway be a season of 60 days with a daily bag limit of 2 scaup.

Service Response: The Service and four Flyway Councils adopted an AHM protocol for scaup in 2008 (73 FR 43290, July 24, 2008; 73 FR 51124, August 29, 2008) whereby we set scaup hunting regulations in all four Flyways based on the status and demographics of these birds.

For the 2021–22 hunting season, we evaluated alternative harvest regulations for scaup using: (1) A management objective of 95 percent of maximum sustainable harvest; (2) the regulatory alternatives; and (3) the current population model. Based on a moderate regulatory alternative for the 2020–21 season, and the 2020 model prediction of 3.53 million scaup (Federal WBPHS traditional survey area, strata 1–18, 20–50, and 75–77), the optimal regulation for all four Flyways is the restrictive alternative. Therefore, we concur with the recommendations of the four Flyway Councils regarding selection of the restrictive alternative for the 2021–22 season.

We do not support the Mississippi Flyway Council's recommendation to revise the restrictive scaup regulatory alternative for the Mississippi Flyway to include a 60-day season with a 2-bird daily bag limit. The scaup harvest strategy prescribes allowable harvest limits for each flyway. In 2009, we accepted the Mississippi Flyway Council's recommendation for a hybrid season with 45 days at a 2-bird daily bag limit and 15 days at a 1-bird daily bag under the restrictive alternative to stay within allowable harvest limits. We do not support the current recommendation because it is outside the normal process for revising national harvest strategies, which involves working with the Service and Flyway Councils through the Harvest Management Working Group. Further, predicted harvest under this recommendation would exceed the harvest threshold established for the Mississippi Flyway restrictive alternative, as we previously indicated in 2008 when we received a similar recommendation. We note the Mississippi Flyway Council observation that realized harvests in the Mississippi Flyway have exceeded thresholds in other years, but do not agree that because that has occurred the alternative should be replaced with one that explicitly exceeds the threshold. We encourage the Mississippi Flyway Council to work with the other Flyway Councils through the Harvest Management Working Group to review and possibly revise the current scaup harvest strategy as appropriate, similar to the process that is underway for the pintail harvest strategy.

xi. Other

Council Recommendations: The Atlantic Flyway Council recommended a mallard daily bag limit of two birds, only one of which could be female, for the Atlantic Flyway. At the April SRC meeting, the Central Flyway Council presented an evaluation plan in support of their earlier recommendation that the Service allow South Dakota and Nebraska to evaluate a two-tier regulations system, wherein two different types of regulations would be available to hunters to harvest ducks (see 85 FR 51857, August 21, 2020).

Service Response: We agree with the Atlantic Flyway Council's recommendation for a mallard daily bag limit of two birds, of which only one may be female, for the Atlantic Flyway. The Atlantic Flyway Council's eastern waterfowl AHM protocol (see above) did not specifically address bag limits for mallards. The number of breeding mallards in the northeastern United States (about two-thirds of the eastern mallard population in 1998) has decreased by about 38 percent since 1998, and the overall population has declined by about 1 percent per year during that time period. This situation has resulted in reduced harvest potential for that population. The Service conducted a Prescribed Take Level (PTL) analysis to estimate the allowable take (kill rate) for eastern mallards, and compared that with the expected kill rate under the most liberal season length (60 days) considered as part of the eastern waterfowl AHM regulatory alternatives.

Using contemporary data and assuming a management objective of maximum long-term sustainable harvest, the PTL analysis estimated an allowable kill rate of 0.194–0.198. The expected kill rate for eastern mallards under a 60-day season and a 2-mallard daily bag limit in the U.S. portion of the Atlantic Flyway was 0.193 (SE = 0.016), which is slightly below (but not significantly different from) the point estimate of allowable kill at maximum long-term sustainable harvest. This indicates that a 2-bird daily bag limit is sustainable at this time.

Regarding the Central Flyway Council's evaluation plan for a two-tier

regulations system, we earlier noted our intent to approve the Central Flyway Council's recommendation for a limited two-tier regulations system in selected States to assess impacts to hunters and duck harvests during the 2021–22 season as published in the **Federal Register** (see 85 FR 51857, August 21, 2020). In October 2019, the Service tasked Division of Migratory Bird Management staff to work with the Flyway Councils to develop a team to address the components needed in an evaluation, and to have a draft evaluation plan that is supported by both the Division of Migratory Bird Management and the Flyway Councils ready for review prior to the spring 2020 SRC meeting. As of spring of 2021 the components of the evaluation plan (compliance, developing shared objectives, identifying appropriate metrics for evaluation, monitoring efforts, and addressing law enforcement concerns) have been addressed in an MOA between the Service and the two States, which outlines the roles and responsibilities of each partner in the agreement.

We appreciate the work that the Flyway Councils and the Division of Migratory Bird Management have completed to finalize an evaluation plan for the first year of a two-tier regulation study for duck harvests. The group has completed the work we requested last October, and therefore we support moving forward with the study beginning with the 2021–22 season. The study will allow different species-specific and overall bag limits for each of the two license types. We encourage the Central Flyway and the Division of Migratory Bird Management to review information collected during the first season and as the study progresses. The goal of the data collection is to determine whether improvement of collection methods is necessary or appropriate, and to assess possible enforcement issues faced by conservation officers from two-tier regulations.

4. Canada and Cackling Geese

B. Regular Seasons

Council Recommendations: The Mississippi Flyway Council recommended increasing the daily bag limit for Canada and cackling geese from 3 to 5 geese in the aggregate in the Mississippi Flyway. The Pacific Flyway Council recommended decreasing the daily bag limit for Canada and cackling geese from 6 to 4 geese in the aggregate in Oregon's Northwest Permit Zone.

Written Comments: The Atlantic Flyway Council noted that a regulatory change for the for Atlantic Population (AP) Canada geese recommended by the Atlantic Flyway Council on September 25, 2020, was made to and approved by the Service Regulations Committee on October 21, 2020, but was not reflected in the February 22, 2021, proposed rule for the 2021–2022 season. The Council recommended a season length of 30 days with a daily bag limit of 1 goose for all AP goose harvest areas (other than the Northeast Hunt Unit of North Carolina) in the U.S. portion of the Atlantic Flyway for the 2021–2022 season; and in the Northeast Hunt Unit of North Carolina, a season length of 14 days with a daily bag limit of 1 goose.

Service Response: We agree with the Mississippi Flyway Council's recommendation to increase the daily bag limit for Canada and cackling geese from 3 to 5 geese in the aggregate for the entire 107-day season. The Council's technical assessment suggests that this change will maintain the harvest rate for subarctic Canada and cackling goose breeding populations at or below 11 percent, which serves as a decision threshold between liberal and standard frameworks in the Mississippi Flyway Council's management plan. If operational monitoring for subarctic Canada and cackling goose populations is not conducted during spring and summer 2021 due to the ongoing coronavirus pandemic, we will discuss with the Mississippi Flyway Council the appropriate daily bag limit for the subsequent season due to the lack of monitoring information.

We also agree with the Pacific Flyway Council's recommendation to decrease the daily bag limit for Canada and cackling geese from 6 to 4 geese in the aggregate in Oregon's Northwest Permit Zone. The most recently available 3-year average predicted fall population estimate (2017–19) for *minima* cackling geese is 235,137, which is near the lower end of the Council's population objective of 250,000 ± 10 percent (225,000–275,000). The decrease in bag limit is specifically intended to maintain objective abundance of *minima* cackling geese, and is consistent with the Council's harvest strategy for these birds. Also, the bag limit for Canada and cackling geese of 4 per day in the aggregate in Oregon's Northwest Permit Zone will simplify regulations by matching the 4-bird bag limit currently allowed for Canada and cackling geese in the aggregate in the basic season framework for Oregon and the Pacific Flyway.

We also agree with the Atlantic Flyway Council's recommendation for a season length of 30 days with a daily bag limit of 1 goose for all AP goose harvest areas (other than the Northeast Hunt Unit of North Carolina) in the U.S. portion of the Atlantic Flyway for the 2021–2022 season; and in the Northeast Hunt Unit of North Carolina, a season length of 14 days with a daily bag limit of 1 goose. The recommendation is consistent with the Atlantic Flyway Council's AP goose harvest strategy and available data on the status of the population. The estimated abundance of breeding pairs has declined over the past 5 years combined with poor recruitment since 2009. Also, the Council's recommendation standardizes regulations among States in the Atlantic Flyway and addresses a social concern regarding differential bag limits under the harvest strategy's restrictive package.

6. Brant

Council Recommendations: The Atlantic Flyway Council recommended that the Service discontinue use of the harvest strategy for Atlantic brant adopted by the Service in 2015 for setting annual Atlantic brant hunting regulations. The Atlantic Flyway Council also recommended frameworks with a 50-day season and a 2-bird daily bag limit for Atlantic brant in the Atlantic Flyway for the 2021–22 season.

The Pacific Flyway Council recommended that the 2021–22 brant season frameworks be determined based on the harvest strategy in the Council's management plan for the Pacific population of brant pending results of the 2021 Winter Brant Survey (WBS). If results of the 2021 WBS are not available, results of the most recent WBS should be used.

Service Response: We agree with the Atlantic Flyway Council's recommendation to discontinue use of the harvest strategy for Atlantic brant adopted by the Service in 2015 for establishing Atlantic brant season frameworks. As we discussed in the March 28, 2016, **Federal Register** (81 FR 17302), we adopted in 2015 the Atlantic Flyway Council's harvest strategy to determine the Atlantic brant season frameworks. In developing the annual proposed frameworks for Atlantic brant, the Atlantic Flyway Council and the Service used the number of brant counted during the Midwinter Waterfowl Survey (MWS) in the Atlantic Flyway to determine annual allowable season length and daily bag limits. The MWS is conducted each January, which is after the date that proposed frameworks are formulated in the regulatory process. However, the data were typically available by the expected publication of final frameworks. When we acquired the

survey data, we determined the appropriate allowable harvest for the Atlantic brant season according to the harvest strategy, and published the results in the final frameworks rule. However, in 2020, the Atlantic Flyway Council developed and adopted a new harvest strategy for Atlantic brant that uses available data and a demographic model to predict population abundance for the subsequent year and determine the appropriate regulatory alternative. The Atlantic Flyway Council's newly adopted harvest strategy now fits within the regulatory schedule, and makes the Service's 2015 adopted harvest strategy obsolete and unnecessary. Based on the Atlantic Flyway Council's new harvest strategy, the 2021 predicted Atlantic brant population index is 126,000 birds and results in a prescribed season framework with a 50-day season and a 2-bird daily bag limit for Atlantic brant in the Atlantic Flyway for the 2021–22 season. Therefore, we also agree with the Atlantic Flyway Council's recommendation for a framework for Atlantic brant with a 50-day season and 2-bird daily bag limit for the 2021–22 season.

We also agree with the Pacific Flyway Council's recommendation that the 2021–22 Pacific brant season framework be determined by the harvest strategy in the Council's management plan for the Pacific population of brant pending results of the 2021 WBS. As we discussed in the August 21, 2020, **Federal Register** (85 FR 51854), the harvest strategy used to determine the Pacific brant season frameworks does not fit well within the current regulatory process. In developing the annual proposed frameworks for Pacific brant, the Pacific Flyway Council and the Service use the 3-year average number of brant counted during the WBS in the Pacific Flyway to determine annual allowable season length and daily bag limits. The WBS is conducted each January, which is after the date that proposed frameworks are formulated in the regulatory process. However, the data are typically available by the expected publication of these final frameworks. When we acquire the survey data, we determine the appropriate allowable harvest for the Pacific brant season according to the harvest strategy in the Pacific Flyway Council's management plan for the Pacific population of brant published in the August 21, 2020, **Federal Register** (85 FR 51854).

The recent 3-year average (2019–2021) WBS count of Pacific brant was 151,434. Based on the harvest strategy, the appropriate season length and daily bag limit framework for Pacific brant in the 2021–22 season is a 107-day season with a 4-bird daily bag limit in Alaska, and a 37-day season with a 2-bird daily bag limit in California, Oregon, and Washington.

7. Snow and Ross's (Light) Geese

Council Recommendations: The Pacific Flyway Council recommended two changes to the light goose season frameworks in the Pacific Flyway. Specifically, the Council recommended:

1. In Oregon, increasing the daily bag limit for light geese to 20 per day, statewide and during the entire season framework, and

2. In Washington, increasing the daily bag limit for light geese on or before the last Sunday in January to 10 per day and 20 per day thereafter.

Service Response: We agree with the Pacific Flyway Council's recommendations for increasing the daily bag limit for light geese in Oregon and Washington. Three populations of light geese occur in the Pacific Flyway and are above the Council's management plan population objectives based on the most recently available breeding population indices. The population estimate for the Western Arctic Population (WAP) of lesser snow geese was 419,800 in 2013, which is above the objective of 200,000 geese. Ross's geese were estimated at 233,300 in 2019, and are above the objective of 100,000 geese. The Wrangel Island Population (WIP) of lesser snow geese was 685,120 in 2020, and the recent 3-year (2018–2020) average was 477,640, which is above the objective of 120,000 geese based on the 3-year average. Also, light geese in the Pacific Flyway are indexed by fall and winter surveys in California, Oregon, Washington, and British Columbia. The most recent winter index was 1,599,641 light geese in 2019. The annual index has increased 6.04 percent annually since 2000, when the index averaged about 550,000, and indicates continued growth of light goose populations in the Pacific Flyway. Current evidence suggests most light geese in Oregon and Washington during fall and early winter are primarily WIP snow geese, but an influx of WAP snow and Ross's geese occurs during late winter as birds begin to move north toward breeding areas. The current 6-bird daily bag limit for light geese in Oregon (on or before the last Sunday in January, and in the Northwest Permit Zone season long) and Washington were intended to minimize harvest of WIP snow geese when they were below the population objective. The bag limit increase to 20 light geese per day in Oregon and Washington will simplify regulations by matching the 20-bird daily bag limit currently allowed for light geese in the basic season framework for the Pacific Flyway.

9. Sandhill Cranes

Council Recommendations: The Central and Pacific Flyway Councils recommended establishment of two new hunting areas for the Rocky Mountain Population (RMP) of sandhill cranes including Duchesne County in northeast Utah and Cascade and Teton Counties in northcentral Montana, and that allowable harvest of RMP cranes be determined based on the formula described in the Pacific and Central Flyway Councils' Management Plan for RMP cranes.

Service Response: We agree with the Central and Pacific Flyway Councils' recommendations to establish the two new hunting areas for RMP cranes. The new hunting areas are consistent with the hunting area requirements in the Pacific and Central Flyway Councils' RMP crane management plan.

We also agree with the Central and Pacific Flyway Councils' recommendations to determine allowable harvest of RMP cranes using the formula in the Pacific and Central Flyway Councils' management plan for RMP cranes pending results of the fall 2020 abundance and recruitment surveys. As we discussed in the March 28, 2016, **Federal Register** (81 FR 17302), the harvest strategy used to calculate the allowable harvest of RMP cranes does not fit well within the current regulatory process. In developing the annual proposed frameworks for RMP cranes, the Flyway Councils and the Service use the fall abundance and recruitment surveys of RMP cranes to determine annual allowable harvest. Results of the fall abundance and recruitment surveys of RMP cranes are released between December 1 and January 31 each year, which is after the date proposed frameworks are developed. However, the data are typically available by the expected publication of these final frameworks. When we acquire the survey data, we determine the appropriate allowable harvest for the RMP crane season according to the harvest strategy in the Central and Pacific Flyway Councils' management plan for RMP cranes published in the March 28, 2016, **Federal Register** (81 FR 17302).

The 2020 fall RMP crane abundance estimate was 25,636 cranes, resulting in a 3-year (2018–20) average of 22,909 cranes, similar to the previous 3-year average, which was 20,894 cranes. The RMP crane recruitment estimate was 9.70 percent young in the fall

population, resulting in a 3-year (2018–20) average of 8.84 percent, which is similar to the previous 3-year average of 8.25 percent. Using the current harvest strategy and the above most recent 3-year average abundance and recruitment estimates, the allowable harvest for the 2021–22 season is 2,378 cranes.

14. American Woodcock

Council Recommendations: At the April SRC meeting, the Atlantic, Mississippi, and Central Flyway Councils recommended season framework dates for American woodcock in the Eastern Management Region and Central Management Region be changed to September 13–January 31 and use of the ''moderate'' season framework for the 2021–22 season.

Service Response: In 2011, we implemented a harvest strategy for American woodcock (76 FR 19876; April 8, 2011). The harvest strategy provides a transparent framework for making regulatory decisions for American woodcock season length and bag limits while we work to improve monitoring and assessment protocols for this species. The American Woodcock Harvest Strategy is available on our website at *https://www.fws.gov/birds/surveys-and-data/webless-migratory-game-birds/american-woodcock.php.*

In the October 9, 2020, proposed rule (85 FR 64097), we proposed to change the opening framework date for American woodcock in the Eastern and Central Management Regions to a fixed date of September 13. Framework dates currently are October 1–January 31 and the Saturday nearest September 22–January 31 for the Eastern and Central Management Regions, respectively. Results from an assessment conducted by Service staff suggest that total season harvest would not increase in either management region as a result of these changes. Consistent with our earlier proposal, we agree with the Atlantic, Mississippi, and Central Flyway Councils' recommendations that the framework dates for the Eastern Management Region and Central Management Region be changed to September 13–January 31.

Utilizing the criteria developed for the strategy, the 3-year average for the Singing Ground Survey indices and associated confidence intervals fall within the ''moderate package'' for both the Eastern and Central Management Regions. As such, a ''moderate season'' for both management regions for the 2021–22 season is appropriate.

16. Doves

Council Recommendations: The Atlantic, Mississippi, Central, and Pacific Flyway Councils recommended adoption of the standard regulatory alternative as prescribed in the national mourning dove harvest strategy for their respective Mourning Dove Management Units. The standard regulatory alternative consists of a 90-day season and 15-bird daily bag limit for States within the Eastern and Central Management Units, and a 60-day season and 15-bird daily bag limit for States in the Western Management Unit.

The Central Flyway Council also recommended changes to the Special White-winged Dove Area in Texas. They proposed to add 2 days to the existing 4 days allowed in that area, and to codify in Federal regulations that hunting may occur only from noon to sunset during those days. This latter restriction has been in Texas' State regulations, so making this provision would involve only codifying the shooting hours in Federal regulations.

Service Response: Based on the harvest strategies and current population status, we agree with the recommended selection of the standard season frameworks for doves in the Eastern, Central, and Western Management Units for the 2021–22 season. We also agree with the Central Flyway Council's recommendation to add 2 days to the existing 4 hunting days permitted in the Special White-winged Dove Area in Texas, and to codify in Federal regulations that shooting hours for those 6 days will be from noon to sunset. The additional days will allow more opportunity and flexibility to hunters by providing 3 consecutive days of dove hunting each of the first two weekends in September. As we have stated in the past (see 76 FR 54056, August 30, 2011), the Service remains concerned about the effect of early September hunting on late-nesting mourning doves. We note that abundances of mourning doves in the Central Management Unit have declined since 2008, and additional harvest associated with this change could exacerbate that trend. We encourage Texas and the Central Flyway Council to conduct appropriate monitoring of both mourning and white-winged doves that will inform adjustments to the dove harvest management strategy, if necessary, to maintain desired abundances of doves. Such efforts should include contemporary nesting ecology studies to determine the extent of nesting activity in September, various aspects of nesting ecology (*e.g.,* nesting rate, clutch size, nest success), and exposure of nesting adults to harvest.

Required Determinations

National Environmental Policy Act (NEPA) Consideration

The programmatic document, ''Second Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (EIS 20130139),'' filed with the Environmental Protection Agency (EPA) on May 24, 2013, addresses NEPA compliance by the Service for issuance of the annual framework regulations for hunting of migratory game bird species. We published a notice of availability in the **Federal Register** on May 31, 2013 (78 FR 32686), and our Record of Decision on July 26, 2013 (78 FR 45376). We also address NEPA compliance for waterfowl hunting frameworks through the annual preparation of separate environmental assessments, the most recent being ''Duck Hunting Regulations for 2021–22,'' with its corresponding May 2021 finding of no significant impact. The programmatic document, as well as the separate environmental assessment, is available on our website at *https://www.fws.gov/birds/index.php,* or from the address indicated under the caption **ADDRESSES**.

Endangered Species Act Consideration

Section 7 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), provides that the Secretary shall insure that any action authorized, funded, or carried out is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of critical habitat. After we published the October 9, 2020, proposed rule, we conducted formal consultations to ensure that actions resulting from these regulations would not likely jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of their critical habitat. Findings from these consultations are included in a biological opinion, which concluded that the regulations are not likely to jeopardize the continued existence of any endangered or threatened species. The biological opinion resulting from this section 7 consultation is available for public inspection at the address indicated under **ADDRESSES**.

Regulatory Planning and Review—Executive Orders 12866 and 13563

Executive Order (E.O.) 12866 provides that the Office of Information and Regulatory Affairs (OIRA) will review all significant rules. OIRA has reviewed

this rule and has determined that this rule is significant because it will have an annual effect of $100 million or more on the economy.

E.O. 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. E.O. 13563 directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

An economic analysis was prepared for the 2021–22 season. This analysis was based on data from the 2016 National Survey of Fishing, Hunting, and Wildlife-Associated Recreation (National Survey), the most recent year for which data are available (see discussion under Regulatory Flexibility Act, below). This analysis estimated consumer surplus for three alternatives for duck hunting regulations. As defined by the U.S. Office of Management and Budget in Circular A–4, consumers' surplus is the difference between what a consumer pays for a unit of a good or service and the maximum amount the consumer would be willing to pay for that unit. The duck hunting regulatory alternatives are (1) issue restrictive regulations allowing fewer days than those issued during the 2020–21 season, (2) issue moderate regulations allowing more days than those in alternative 1, and (3) issue liberal regulations similar to the regulations in the 2020–21 season. For the 2021–22 season, we chose Alternative 3, with an estimated consumer surplus across all flyways of $270–$358 million with a mid-point estimate of $314 million. We also chose Alternative 3 for the 2009–10 through 2020–21 seasons. The 2021–22 analysis is part of the record for this rule and is available at *http://www.regulations.gov* at Docket No. FWS–HQ–MB–2020–0032.

Regulatory Flexibility Act

The annual migratory bird hunting regulations have a significant economic impact on substantial numbers of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). A final regulatory flexibility analysis was prepared to analyze the economic impacts of the annual hunting regulations on small business entities. This analysis is updated annually. The primary source of information about hunter expenditures for migratory game bird hunting is the National Survey, which is generally conducted at 5-year intervals. The 2021 analysis is based on the 2016 National Survey and the U.S. Department of Commerce's County Business Patterns, from which it is estimated that migratory bird hunters will spend approximately $2.2 billion at small businesses in 2021. Copies of the analysis are available upon request from the Division of Migratory Bird Management (see **ADDRESSES**) or from *http://www.regulations.gov* at Docket No. FWS–HQ–MB–2020–0032.

Small Business Regulatory Enforcement Fairness Act

This rule is a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. For the reasons outlined above, this rule will have an annual effect on the economy of $100 million or more. However, because this rule establishes hunting seasons, which are time sensitive, we do not plan to defer the effective date under the exemption contained in 5 U.S.C. 808(1).

Paperwork Reduction Act

This rule does not contain any new collection of information that requires approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). OMB has previously approved the information collection requirements associated with migratory bird surveys and the procedures for establishing annual migratory bird hunting seasons under the following OMB control numbers:

- 1018–0019, ''North American Woodcock Singing Ground Survey'' (expires 02/29/2024).
- 1018–0023, ''Migratory Bird Surveys, 50 CFR 20.20'' (expires 04/30/2023). Includes Migratory Bird Harvest Information Program, Migratory Bird Hunter Surveys, Sandhill Crane Survey, and Parts Collection Survey.
- 1018–0171, ''Establishment of Annual Migratory Bird Hunting Seasons, 50 CFR part 20'' (expires 02/29/2024).

You may view the information collection request(s) at *http://www.reginfo.gov/public/do/PRAMain.* 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.

Unfunded Mandates Reform Act

We have determined and certify, in compliance with the requirements of the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.,* that this rulemaking will not impose a cost of $100 million or more in any given year on local or State government or private entities. Therefore, this rule is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act.

Civil Justice Reform—Executive Order 12988

The Department, in promulgating this rule, has determined that this rule will not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of E.O. 12988.

Takings Implication Assessment

In accordance with E.O. 12630, this rule, authorized by the Migratory Bird Treaty Act, does not have significant takings implications and does not affect any constitutionally protected property rights. This rule will not result in the physical occupancy of property, the physical invasion of property, or the regulatory taking of any property. In fact, this rule will allow hunters to exercise otherwise unavailable privileges and, therefore, will reduce restrictions on the use of private and public property.

Energy Effects—Executive Order 13211

E.O. 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. While this rule is a significant regulatory action under E.O. 12866, it is not expected to adversely affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required.

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), E.O. 13175, and 512 DM 2, we have evaluated possible effects on Federally recognized Indian tribes and have determined that there are *de minimis* effects on Indian trust resources. We solicited proposals for special migratory bird hunting regulations for certain Tribes on Federal Indian reservations, off-reservation trust lands, and ceded lands for the 2021–22 migratory bird hunting season in the October 9, 2020, proposed rule (85 FR 64097). The resulting proposals are published in a separate proposed rule. Through this

process to establish annual hunting regulations, we regularly coordinate with Tribes that are affected by this rule.

Federalism Effects

Due to the migratory nature of certain species of birds, the Federal Government has been given responsibility over these species by the Migratory Bird Treaty Act. We annually prescribe frameworks from which the States make selections regarding the hunting of migratory birds, and we employ guidelines to establish special regulations on Federal Indian reservations and ceded lands. This process preserves the ability of the States and Tribes to determine which seasons meet their individual needs. Any State or Tribe may be more restrictive in its regulations than the Federal frameworks at any time. The frameworks are developed in a cooperative process with the States and the Flyway Councils. This process allows States to participate in the development of frameworks from which they will make selections, thereby having an influence on their own regulations. These rules do not have a substantial direct effect on fiscal capacity, change the roles or responsibilities of Federal or State governments, or intrude on State policy or administration. Therefore, in accordance with E.O. 13132, these regulations do not have significant federalism effects and do not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

Regulations Promulgation

The rulemaking process for migratory game bird hunting, by its nature, operates under a time constraint as seasons must be established each year or hunting seasons remain closed. However, we intend that the public be provided extensive opportunity for public input and involvement in compliance with Administrative Procedure Act requirements. Thus, when the preliminary proposed rulemaking was published, we established what we concluded were the longest periods possible for public comment and the most opportunities for public involvement. We also provided notification of our participation in multiple Flyway Council meetings, opportunities for additional public review and comment on all Flyway Council proposals for regulatory change, and opportunities for additional public review during the SRC meeting. Therefore, sufficient public notice and opportunity for involvement have been given to affected persons regarding the migratory bird hunting frameworks for the 2021–22 hunting season. Further, after establishment of the final frameworks, States need sufficient time to conduct their own public processes to select season dates and limits; to communicate those selections to us; and to establish and publicize the necessary regulations and procedures to implement their decisions. Thus, if there were a delay in the effective date of these regulations after this final rulemaking, States might not be able to meet their own administrative needs and requirements.

For the reasons cited above, we find that ''good cause'' exists, within the terms of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act, and these frameworks will take effect immediately upon publication.

Therefore, under authority of the Migratory Bird Treaty Act (July 3, 1918), as amended (16 U.S.C. 703–711), we prescribe final frameworks setting forth the species to be hunted, the daily bag and possession limits, the shooting hours, the season lengths, the earliest opening and latest closing season dates, and hunting areas, from which State conservation agency officials will select hunting season dates and other options. Upon receipt of season selections from these officials, we will publish a final rulemaking amending 50 CFR part 20 to reflect seasons, limits, and shooting hours for the United States for the 2021–22 seasons. The rules that eventually will be promulgated for the 2021–22 hunting season are authorized under 16 U.S.C. 703–712 and 742 a–j.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

Final Regulations Frameworks for 2021–22 Hunting Seasons on Certain Migratory Game Birds

Pursuant to the Migratory Bird Treaty Act and delegated authorities, the Department of the Interior is establishing the following frameworks for outside dates, season lengths, shooting hours, bag and possession limits, and areas within which States may select seasons for hunting migratory game birds between the dates of September 1, 2021, and March 10, 2022. These frameworks are summarized below.

General

Dates: All outside dates specified below are inclusive.

Season Lengths: All season lengths specified below are the maximum number of days allowed.

Season Segments: All season segments specified below are the maximum number of segments allowed.

Zones: Unless otherwise specified, States may select hunting seasons by zone. Zones for duck seasons (and associated youth and veterans–active military waterfowl hunting days, gallinule seasons, and snipe seasons) and dove seasons may be selected only in years we declare such changes can be made (*i.e.,* open seasons for zones and splits) and according to federally established guidelines for duck and dove zones and split seasons. Areas open to hunting must be described, delineated, and designated as such in each State's hunting regulations and published in the **Federal Register** as a Federal migratory bird hunting frameworks final rule.

Shooting and Hawking (taking by falconry) Hours: Unless otherwise specified, from one-half hour before sunrise to sunset daily.

Possession Limits: Unless otherwise specified, possession limits are three times the daily bag limit.

Permits: For some species of migratory birds, the Service authorizes the use of permits to regulate harvest or monitor their take by hunters, or both. In such cases, the Service determines the amount of harvest that may be taken during hunting seasons during its formal regulations-setting process, and the States then issue permits to hunters at levels predicted to result in the amount of take authorized by the Service. Thus, although issued by States, the permits would not be valid unless the Service approved such take in its regulations.

These federally authorized, State-issued permits are issued to individuals, and only the individual whose name and address appears on the permit at the time of issuance is authorized to take migratory birds at levels specified in the permit, in accordance with provisions of both Federal and State regulations governing the hunting season. The permit must be carried by the permittee when exercising its provisions and must be presented to any law enforcement officer upon request. The permit is not transferrable or assignable to another individual, and may not be sold, bartered, traded, or otherwise provided to another person. If the permit is altered or defaced in any way, the permit becomes invalid.

Flyways and Management Units

We set migratory bird hunting frameworks for the conterminous U.S. States by Flyway or Management Unit/Region. Frameworks for Alaska, Hawaii, Puerto Rico, and the Virgin Islands are

contained in separate sections near the end of the frameworks portion of this document. The States included in the Flyways and Management Units/Regions are described below.

Waterfowl Flyways

Atlantic Flyway: Includes Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and West Virginia.

Mississippi Flyway: Includes Alabama, Arkansas, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Ohio, Tennessee, and Wisconsin.

Central Flyway: Includes Colorado (east of the Continental Divide), Kansas, Montana (Counties of Blaine, Carbon, Fergus, Judith Basin, Stillwater, Sweetgrass, Wheatland, and all counties east thereof), Nebraska, New Mexico (east of the Continental Divide except the Jicarilla Apache Indian Reservation), North Dakota, Oklahoma, South Dakota, Texas, and Wyoming (east of the Continental Divide).

Pacific Flyway: Includes Arizona, California, Idaho, Nevada, Oregon, Utah, Washington, and those portions of Colorado, Montana, New Mexico, and Wyoming not included in the Central Flyway.

Mallard Management Units

High Plains Management Unit: Roughly defined as that portion of the Central Flyway that lies west of the 100th meridian. See Area, Unit, and Zone Descriptions, *Ducks (Including Mergansers) and Coots,* below, for specific boundaries in each State.

Columbia Basin Management Unit: In Washington, all areas east of the Pacific Crest Trail and east of the Big White Salmon River in Klickitat County; and in Oregon, the counties of Gilliam, Morrow, and Umatilla.

Mourning Dove Management Units

Eastern Management Unit: All States east of the Mississippi River, and Louisiana.

Central Management Unit: Arkansas, Colorado, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, and Wyoming.

Western Management Unit: Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington.

Woodcock Management Regions

Eastern Management Region: Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and West Virginia.

Central Management Region: Alabama, Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee, Texas, and Wisconsin.

Definitions

For the purpose of the hunting regulations listed below, the collective terms ''dark'' and ''light'' geese include the following species:

Dark geese: Canada geese, cackling geese, white-fronted geese, brant (except in Alaska, California, Oregon, Washington, and the Atlantic Flyway), and all other goose species except light geese.

Light geese: Snow (including blue) geese and Ross's geese.

Area, Zone, and Unit Descriptions: Geographic descriptions related to regulations are contained in a later portion of this document.

Migratory Game Bird Seasons in the Atlantic Flyway

In the Atlantic Flyway States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Jersey, North Carolina, and Pennsylvania, where Sunday hunting of migratory birds is prohibited statewide by State law or regulation, all Sundays are closed to the take of all migratory game birds.

Season Frameworks

Special Youth and Veterans—Active Military Personnel Waterfowl Hunting Days

Outside Dates: States may select 2 days per duck-hunting zone, designated as ''Youth Waterfowl Hunting Days,'' and 2 days per duck-hunting zone, designated as ''Veterans and Active Military Personnel Waterfowl Hunting Days,'' in addition to their regular duck seasons. The days may be held concurrently. The Youth Waterfowl Hunting Days must be held outside any regular duck season on weekends, holidays, or other non-school days when youth hunters would have the maximum opportunity to participate. Both sets of days may be held up to 14 days before or after any regular duck-season frameworks or within any split of a regular duck season, or within any other open season on migratory birds.

Daily Bag Limits: The daily bag limits may include ducks, geese, swans, mergansers, coots, and gallinules. Bag limits would be the same as those allowed in the regular season except in States that implement a hybrid season for scaup (*i.e.,* different bag limits during different portions of the season), in which case the bag limit will be 2 scaup per day. Flyway species and area restrictions would remain in effect.

Participation Restrictions for Youth Waterfowl Hunting Days: States may use their established definition of age for youth hunters. However, youth hunters must be under the age of 18. In addition, an adult at least 18 years of age must accompany the youth hunter into the field. This adult may not duck hunt but may participate in other seasons that are open on the special youth day. Youth hunters 16 years of age and older must possess a Federal Migratory Bird Hunting and Conservation Stamp (also known as Federal Duck Stamp). Swans may only be taken by participants possessing applicable swan permits.

Participation Restrictions for Veterans and Active Military Personnel Waterfowl Hunting Days: Veterans (as defined in section 101 of title 38, United States Code) and members of the Armed Forces on active duty, including members of the National Guard and Reserves on active duty (other than for training), may participate. All hunters must possess a Federal Migratory Bird Hunting and Conservation Stamp (also known as Federal Duck Stamp). Swans may only be taken by participants possessing applicable swan permits.

Special September Teal Seasons

Outside Dates: Between September 1 and September 30, an open season on all species of teal may be selected by the following States in areas delineated by State regulations:

Atlantic Flyway: Delaware, Florida, Georgia, Maryland, North Carolina, South Carolina, and Virginia.

Mississippi Flyway: Alabama, Arkansas, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Ohio, Tennessee, and Wisconsin. The season in Minnesota is experimental.

Central Flyway: Colorado (part), Kansas, Nebraska, New Mexico (part), Oklahoma, and Texas.

Hunting Seasons and Daily Bag Limits: Not to exceed 16 consecutive days in the Atlantic, Mississippi, and Central Flyways. The daily bag limit is 6 teal.

Shooting Hours

One-half hour before sunrise to sunset, except in the States of Arkansas, Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, South Carolina, and Wisconsin, where the hours are from sunrise to sunset.

Special September Duck Seasons

Florida, Kentucky, and Tennessee: In lieu of a special September teal season, a 5-consecutive-day teal/wood duck season may be selected in September. The daily bag limit may not exceed 6 teal and wood ducks in the aggregate, of which no more than 2 may be wood ducks. In addition, a 4-consecutive-day teal-only season may be selected in September either immediately before or immediately after the 5-consecutive-day teal/wood duck season. The daily bag limit is 6 teal.

Waterfowl

Atlantic Flyway

Ducks, Mergansers, and Coots

Outside Dates: Between the Saturday nearest September 24 (September 25) and January 31.

Hunting Seasons and Duck Limits: 60 days. The daily bag limit is 6 ducks, including no more than 2 mallards (no more than 1 of which can be female), 2 black ducks, 1 pintail, 1 mottled duck, 1 fulvous whistling duck, 3 wood ducks, 2 redheads, 2 canvasbacks, 4 scoters, 4 eiders, and 4 long-tailed ducks. The season for scaup may be split into 2 segments, with one segment consisting of 40 consecutive days with a 1-scaup daily bag limit, and the second segment consisting of 20 consecutive days with a 2-scaup daily bag limit.

Closures: The season on harlequin ducks is closed.

Merganser Limits: The daily bag limit of mergansers is 5, only 2 of which may be hooded mergansers. In States that include mergansers in the duck bag limit, the daily limit is the same as the duck bag limit, only 2 of which may be hooded mergansers.

Coot Limits: The daily bag limit is 15 coots.

Lake Champlain Zone, New York: The waterfowl seasons, limits, and shooting hours should be the same as those selected for the Lake Champlain Zone of Vermont.

Connecticut River Zone, Vermont: The waterfowl seasons, limits, and shooting hours should be the same as those selected for the Inland Zone of New Hampshire.

Zoning and Split Seasons: Delaware, Florida, Georgia, Rhode Island, South Carolina, and West Virginia may split their seasons into 3 segments. Maine, Massachusetts, New Hampshire, New Jersey, and Vermont may select seasons in each of 3 zones; Pennsylvania may select seasons in each of 4 zones; and New York may select seasons in each of 5 zones; and all these States may split their season in each zone into 2 segments. Connecticut, Maryland, North Carolina, and Virginia may select seasons in each of 2 zones; and all these States may split their season in each zone into 3 segments. Connecticut, Maryland, North Carolina, and Virginia must conduct an evaluation of the impacts of zones and splits on hunter dynamics (*e.g.,* hunter numbers, satisfaction) and harvest during the 2021–25 seasons.

Scoters, Eiders, and Long-tailed Ducks

Special Sea Duck Seasons:

Connecticut, Delaware, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Rhode Island, South Carolina, and Virginia may select a Special Sea Duck Season in designated Special Sea Duck Areas. If a Special Sea Duck Season is selected, scoters, eiders, and long-tailed ducks may be taken in the designated Special Sea Duck Area(s) only during the Special Sea Duck Season dates; scoters, eiders, and long-tailed ducks may be taken outside of Special Sea Duck Area(s) during the regular duck season, in accordance with the frameworks for ducks, mergansers, and coots specified above.

Outside Dates: Between September 15 and January 31.

Special Sea Duck Seasons and Daily Bag Limits: 60 consecutive days, or 60 days that are concurrent with the regular duck season, with a daily bag limit of 5, of the listed sea duck species, including no more than 4 scoters, 4 eiders, and 4 long-tailed ducks. Within the special sea duck areas, during the regular duck season in the Atlantic Flyway, States may choose to allow the above sea duck limits in addition to the limits applying to other ducks during the regular season. In all other areas, sea ducks may be taken only during the regular open season for ducks and are part of the regular duck season daily bag (not to exceed 4 scoters, 4 eiders, and 4 long-tailed ducks) and possession limits.

Special Sea Duck Areas: In all coastal waters and all waters of rivers and streams seaward from the first upstream bridge in Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, and New York; in New Jersey, all coastal waters seaward from the International Regulations for Preventing Collisions at Sea (COLREGS) Demarcation Lines shown on National Oceanic and Atmospheric Administration (NOAA) Nautical Charts and further described in 33 CFR 80.165, 80.501, 80.502, and 80.503; in any waters of the Atlantic Ocean and in any tidal waters of any bay that are separated by at least 1 mile of open water from any shore, island, and emergent vegetation in South Carolina and Georgia; and in any waters of the Atlantic Ocean and in any tidal waters of any bay that are separated by at least 800 yards of open water from any shore, island, and emergent vegetation in Delaware, Maryland, North Carolina, and Virginia; and provided that any such areas have been described, delineated, and designated as special sea duck hunting areas under the hunting regulations adopted by the respective States.

Canada and Cackling Geese

Special Early Canada and Cackling Goose Seasons

Season Lengths and Outside Dates: A Canada and cackling goose season of not more than 15 days during September 1–15 may be selected for the Eastern Unit of Maryland. Seasons not to exceed 30 days during September 1–30 may be selected for Connecticut, Florida, Georgia, New Jersey, New York (Long Island Zone only), North Carolina, Rhode Island, and South Carolina. Seasons may not exceed 25 days during September 1–25 in the remainder of the Flyway. Areas open to the hunting of Canada and cackling geese must be described, delineated, and designated as such in each State's hunting regulations.

Daily Bag Limits: Not to exceed 15 Canada and cackling geese in the aggregate.

Shooting Hours: One-half hour before sunrise to sunset, except that during any special early Canada and cackling goose season, shooting hours may extend to one-half hour after sunset if all other waterfowl seasons are closed in the specific applicable area.

Regular Dark Goose Seasons

Season Lengths, Outside Dates, and Limits: Specific regulations are provided below by State. The daily bag limit for Canada, cackling, and white-fronted geese is in the aggregate. Unless subsequently provided, seasons may be split into 2 segments.

Connecticut

North Atlantic Population (NAP) Zone: Between October 1 and January 31, a 60-day season may be held with a 2-bird daily bag limit.

Atlantic Population (AP) Zone: A 30-day season may be held between October 10 and February 5, with a 1-bird daily bag limit.

South Zone: A special season may be held between January 15 and February 15, with a 5-bird daily bag limit.

Resident Population (RP) Zone: An 80-day season may be held between

October 1 and February 15, with a 5-bird daily bag limit. The season may be split into 3 segments.

Delaware

A 30-day season may be held between November 15 and February 5, with a 1-bird daily bag limit.

Florida

An 80-day season may be held between October 1 and March 10, with a 5-bird daily bag limit. The season may be split into 3 segments.

Georgia

An 80-day season may be held between October 1 and March 10, with a 5-bird daily bag limit. The season may be split into 3 segments.

Maine

North and South NAP–H Zones: A 60-day season may be held between October 1 and January 31, with a 2-bird daily bag limit.

Coastal NAP–L Zone: A 70-day season may be held between October 1 and February 15, with a 3-bird daily bag limit.

Maryland

RP Zone: An 80-day season may be held between November 15 and March 10, with a 5-bird daily bag limit. The season may be split into 3 segments.

AP Zone: A 30-day season may be held between November 15 and February 5, with a 1-bird daily bag limit.

Massachusetts

NAP Zone: A 60-day season may be held between October 1 and January 31, with a 2-bird daily bag limit. Additionally, a special season may be held from January 15 to February 15, with a 5-bird daily bag limit.

AP Zone: A 30-day season may be held between October 10 and February 5, with a 1-bird daily bag limit.

New Hampshire

A 60-day season may be held statewide between October 1 and January 31, with a 2-bird daily bag limit.

New Jersey

AP Zone: A 30-day season may be held between the fourth Saturday in October (October 24) and February 5, with a 1-bird daily bag limit.

NAP Zone: A 60-day season may be held between October 1 and January 31, with a 2-bird daily bag limit.

Special Late Goose Season Area: A special season may be held in designated areas of north and south New Jersey from January 15 to February 15, with a 5-bird daily bag limit.

New York

NAP Zone: Between October 1 and January 31, a 60-day season may be held, with a 2-bird daily bag limit in the High Harvest areas; and between October 1 and February 15, a 70-day season may be held, with a 3-bird daily bag limit in the Low Harvest areas.

AP Zone: A 30-day season may be held between the fourth Saturday in October (October 23), except in the Lake Champlain Area where the opening date is October 10, through February 5, with a 1-bird daily bag limit.

Western Long Island RP Zone: A 107-day season may be held between the Saturday nearest September 24 (September 25) and the last day of February, with an 8-bird daily bag limit. The season may be split into 3 segments.

Rest of State RP Zone: An 80-day season may be held between the fourth Saturday in October (October 23) and the last day of February, with a 5-bird daily bag limit. The season may be split into 3 segments.

North Carolina

RP Zone: An 80-day season may be held between October 1 and March 10, with a 5-bird daily bag limit. The season may be split into 3 segments.

Northeast Zone: A 14-day season may be held between the Saturday prior to December 25 (December 18) and January 31, with a 1-bird daily bag limit.

Pennsylvania

Southern James Bay Population (SJBP) Zone: A 78-day season may be held between the first Saturday in October (October 2) and February 15, with a 3-bird daily bag limit.

RP Zone: An 80-day season may be held between the fourth Saturday in October (October 23) and March 10, with a 5-bird daily bag limit. The season may be split into 3 segments.

AP Zone: A 30-day season may be held between the fourth Saturday in October (October 23) and February 5, with a 1-bird daily bag limit.

Rhode Island

A 60-day season may be held between October 1 and January 31, with a 2-bird daily bag limit. A special late season may be held in designated areas from January 15 to February 15, with a 5-bird daily bag limit.

South Carolina

In designated areas, an 80-day season may be held between October 1 and March 10, with a 5-bird daily bag limit. The season may be split into 3 segments.

Vermont

Lake Champlain Zone and Interior Zone: A 30-day season may be held between October 10 and February 5, with a 1-bird daily bag limit.

Connecticut River Zone: A 60-day season may be held between October 1 and January 31, with a 2-bird daily bag limit.

Virginia

SJBP Zone: A 40-day season may be held between November 15 and January 14, with a 3-bird daily bag limit. Additionally, a special late season may be held between January 15 and February 15, with a 5-bird daily bag limit.

AP Zone: A 30-day season may be held between November 15 and February 5, with a 1-bird daily bag limit.

RP Zone: An 80-day season may be held between November 15 and March 10, with a 5-bird daily bag limit. The season may be split into 3 segments.

West Virginia

An 80-day season may be held between October 1 and March 10, with a 5-bird daily bag limit. The season may be split into 3 segments.

Light Geese

Season Lengths, Outside Dates, and Limits: States may select a 107-day season between October 1 and March 10, with a 25-bird daily bag limit and no possession limit. Seasons may be split into 3 segments.

Brant

Season Lengths, Outside Dates, and Limits: States may select a 50-day season with a 2-bird daily bag limit between the Saturday nearest September 24 (September 25) and January 31. Seasons may be split into 2 segments.

Mississippi Flyway

Ducks, Mergansers, and Coots

Outside Dates: Between the Saturday nearest September 24 (September 25) and January 31.

Hunting Seasons and Duck Limits: 60 days. The daily bag limit is 6 ducks, including no more than 4 mallards (no more than 2 of which may be females), 1 mottled duck, 2 black ducks, 1 pintail, 3 wood ducks, 2 canvasbacks, and 2 redheads. The season for scaup may be split into 2 segments, with one segment consisting of 45 consecutive days with a 2-scaup daily bag limit, and the second segment consisting of 15 consecutive days with a 1-scaup daily bag limit.

Merganser Limits: The daily bag limit is 5, only 2 of which may be hooded

mergansers. In States that include mergansers in the duck bag limit, the daily limit is the same as the duck bag limit, only 2 of which may be hooded mergansers.

Coot Limits: The daily bag limit is 15 coots.

Zoning and Split Seasons: Alabama, Arkansas, and Mississippi may split their seasons into 3 segments. Kentucky and Tennessee may select seasons in each of 2 zones; and Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio and Wisconsin may select seasons in each of 3 zones; and all these States may split their season in each zone into 2 segments. Illinois may select seasons in each of 4 zones. Louisiana may select seasons in each of 2 zones and may split their season in each zone into 3 segments. Louisiana must conduct an evaluation of the impacts of zones and splits on hunter dynamics (*e.g.,* hunter numbers, satisfaction) and harvest during the 2021–25 seasons.

Geese

Season Lengths, Outside Dates, and Limits

Canada and Cackling Geese: States may select a 107-day season between September 1 and February 15 with a daily bag limit of 5 geese in the aggregate.

White-fronted Geese: States may select either a 74-day season with a daily bag limit of 3 geese, an 88-day season with a daily bag limit of 2 geese, or a 107-day season with a daily bag limit of 1 goose. Seasons must be between September 1 and February 15.

Brant: States may select either a 70-day season with a daily bag limit of 2 brant or a 107-day season with a daily bag limit of 1 brant. Seasons must be between September 1 and February 15. In lieu of a separate brant season, brant may be included in the season for Canada and cackling geese with a daily bag limit of 5 geese in the aggregate.

Dark Geese: In lieu of separate seasons for Canada and cackling geese, white-fronted geese, and brant, Alabama, Iowa, Indiana, Michigan, Minnesota, Ohio, and Wisconsin may select a 107-day dark goose season between September 1 and February 15 with a daily bag limit of 5 geese in the aggregate.

Light Geese: States may select a 107-day season between September 1 and February 15 with a daily bag limit of 20 geese. There is no possession limit for light geese.

Split Seasons: Seasons for geese may be split into 4 segments.

Shooting Hours: One-half hour before sunrise to sunset, except that during September 1–15 shooting hours may extend to one-half hour after sunset for Canada and cackling geese if all other waterfowl and crane seasons are closed in the specific applicable area.

Central Flyway

Ducks, Mergansers, and Coots

Outside Dates: Between the Saturday nearest September 24 (September 25) and January 31.

Hunting Seasons

High Plains Mallard Management Unit (roughly defined as that portion of the Central Flyway that lies west of the 100th meridian): 97 days. The last 23 days must run consecutively and may start no earlier than the Saturday nearest December 10 (December 11).

Remainder of the Central Flyway: 74 days.

Duck Limits: The daily bag limit is 6 ducks, including no more than 5 mallards (no more than 2 of which may be females), 2 redheads, 3 wood ducks, 1 pintail, and 2 canvasbacks. The daily bag limit for scaup is 1, and the season for scaup may be split into 2 segments, with one segment consisting of 39 consecutive days and another segment consisting of 35 consecutive days. In Texas, the daily bag limit on mottled ducks is 1, except that no mottled ducks may be taken during the first 5 days of the season. In addition to the daily limits listed above, the States of Montana, North Dakota, South Dakota, and Wyoming, in lieu of selecting an experimental September teal season, may include an additional daily bag and possession limit of 2 and 6 blue-winged teal, respectively, during the first 16 days of the regular duck season in each respective duck hunting zone. These extra limits are in addition to the regular duck bag and possession limits.

Merganser Limits: The daily bag limit is 5 mergansers, only 2 of which may be hooded mergansers. In States that include mergansers in the duck daily bag limit, the daily limit may be the same as the duck bag limit, only two of which may be hooded mergansers.

Coot Limits: The daily bag limit is 15 coots.

Zoning and Split Seasons: Colorado, Kansas (Low Plains portion), Montana, Nebraska, New Mexico, Oklahoma (Low Plains portion), South Dakota (Low Plains portion), Texas (Low Plains portion), and Wyoming may select hunting seasons by zones.

North Dakota may split their season into 3 segments. Montana, New Mexico, Oklahoma, and Texas may select seasons in each of 2 zones; and Colorado, Kansas, South Dakota, and Wyoming may select seasons in each of 3 zones; and all these States may split their season in each zone into 2 segments. Nebraska may select seasons in each of 4 zones.

Geese

Special Early Canada and Cackling Goose Seasons

Season Lengths, Outside Dates, and Limits: In Kansas, Nebraska, Oklahoma, South Dakota, and Texas, Canada and cackling goose seasons of not more than 30 days during September 1–30 may be selected. In Colorado, New Mexico, Montana, and Wyoming, Canada and cackling goose seasons of not more than 15 days during September 1–15 may be selected. In North Dakota, Canada and cackling goose seasons of not more than 22 days during September 1–22 may be selected. The daily bag limit may not exceed 5 Canada and cackling geese in the aggregate, except in Kansas, Nebraska, and Oklahoma, where the daily bag limit may not exceed 8 Canada and cackling geese in the aggregate, and in North Dakota and South Dakota, where the daily bag limit may not exceed 15 Canada and cackling geese in the aggregate. Areas open to the hunting of Canada and cackling geese must be described, delineated, and designated as such in each State's hunting regulations.

Shooting Hours: One-half hour before sunrise to sunset, except that during September 1–15 shooting hours may extend to one-half hour after sunset if all other waterfowl and crane seasons are closed in the specific applicable area.

Regular Goose Seasons

Season Lengths, Outside Dates, and Limits

Outside Dates: For dark geese, seasons may be selected between the outside dates of the Saturday nearest September 24 (September 25) and the Sunday nearest February 15 (February 13). For light geese, outside dates for seasons may be selected between the Saturday nearest September 24 (September 25) and March 10. In the Rainwater Basin Light Goose Area (East and West) of Nebraska, temporal and spatial restrictions that are consistent with the late-winter snow goose hunting strategy cooperatively developed by the Central Flyway Council and the Service are required.

Dark Geese: In Kansas, Nebraska, North Dakota, Oklahoma, South Dakota, and the Eastern Goose Zone of Texas, States may select a season for Canada and cackling geese (or any other dark goose species except white-fronted geese) not to exceed 107 days with a

daily bag limit of 8 in the aggregate. For white-fronted geese, these States may select either a season of 74 days with a bag limit of 3, or an 88-day season with a bag limit of 2, or a season of 107 days with a bag limit of 1.

In Colorado, Montana, New Mexico, and Wyoming, States may select seasons not to exceed 107 days. The daily bag limit for dark geese is 5 in the aggregate.

In the Western Goose Zone of Texas, the season may not exceed 95 days. The daily bag limit for Canada and cackling geese (or any other dark goose species except white-fronted geese) is 5 in the aggregate. The daily bag limit for white-fronted geese is 2.

Light Geese: States may select a light goose season not to exceed 107 days. The daily bag limit for light geese is 50 with no possession limit.

Split Seasons: Seasons for geese may be split into 3 segments. Three-segment seasons for Canada geese require Central Flyway Council and U.S. Fish and Wildlife Service approval, and a 3-year evaluation by each participating State.

Pacific Flyway

Ducks, Mergansers, and Coots

Outside Dates: Between the Saturday nearest September 24 (September 25) and January 31.

Hunting Seasons and Duck and Merganser Limits: 107 days. The daily bag limit is 7 ducks and mergansers, including no more than 2 female mallards, 1 pintail, 2 canvasbacks, 2 scaup, and 2 redheads. For scaup, the season length is 86 days, which may be split according to applicable zones and split duck hunting configurations approved for each State.

Coot and Gallinule Limits: The daily bag limit of coots and gallinules is 25 in the aggregate.

Zoning and Split Seasons: Montana and New Mexico may split their seasons into 3 segments. Arizona, Colorado, Oregon, Utah, Washington, and Wyoming may select seasons in each of 2 zones; Nevada may select seasons in each of 3 zones; and California may select seasons in each of 5 zones; and all these States may split their season in each zone into 2 segments. Idaho may select seasons in each of 4 zones.

Colorado River Zone, California: Seasons and limits should be the same as seasons and limits selected in the adjacent portion of Arizona (South Zone).

Geese

Special Early Canada and Cackling Goose Seasons

A Canada and cackling goose season of not more than 15 days during September 1–20 may be selected. The daily bag limit may not exceed 5 Canada and cackling geese in the aggregate, except in Pacific County, Washington, where the daily bag limit may not exceed 15 Canada and cackling geese in the aggregate. Areas open to hunting of Canada and cackling geese in each State must be described, delineated, and designated as such in each State's hunting regulations.

Regular Goose Seasons

Season Lengths, Outside Dates, and Limits

Canada Geese, Cackling Geese, and Brant: Except as subsequently provided, 107-day seasons may be selected with outside dates between the Saturday nearest September 24 (September 25) and January 31. In Arizona, Colorado, Idaho, Montana, Nevada, New Mexico, Utah, and Wyoming, the daily bag limit is 4 Canada and cackling geese and brant in the aggregate. In California, Oregon, and Washington, the daily bag limit is 4 Canada and cackling geese in the aggregate. For brant, in California, Oregon and Washington, a 37-day season may be selected. Days must be consecutive. Washington and California may select hunting seasons for up to 2 zones. The daily bag limit is 2 brant and is in addition to other goose limits. In Oregon and California, the brant season must end no later than December 15.

White-fronted Geese: Except as subsequently provided, 107-day seasons may be selected with outside dates between the Saturday nearest September 24 (September 25) and March 10. The daily bag limit is 10.

Light Geese: Except as subsequently provided, 107-day seasons may be selected with outside dates between the Saturday nearest September 24 (September 25) and March 10. The daily bag limit is 20.

Split Seasons: Seasons may be split into 3 segments. Three-segment seasons for Canada geese and white-fronted geese require Pacific Flyway Council and U.S. Fish and Wildlife Service approval and a 3-year evaluation by each participating State.

California

The daily bag limit for Canada and cackling geese is 10 in the aggregate.

Balance of State Zone: A Canada and cackling goose season may be selected with outside dates between the Saturday nearest September 24 (September 25) and March 10. In the Sacramento Valley Special Management Area, the season on white-fronted geese must end on or before December 28, and the daily bag limit is 3 white-fronted geese. In the North Coast Special Management Area, hunting days that occur after January 31 should be concurrent with Oregon's South Coast Zone.

Northeastern Zone: The white-fronted goose season may be split into 3 segments.

Oregon

Eastern Zone: For Lake County only, the daily white-fronted goose bag limit is 1.

Northwest Permit Zone: A Canada and cackling goose season may be selected with outside dates between the Saturday nearest September 24 (September 25) and March 10. Canada and cackling goose and white-fronted goose seasons may be split into 3 segments. In the Tillamook County Management Area, the hunting season is closed on geese.

South Coast Zone: A Canada and cackling goose season may be selected with outside dates between the Saturday nearest September 24 (September 25) and March 10. Canada and cackling goose and white-fronted goose seasons may be split into 3 segments. The daily bag limit of Canada and cackling geese is 6 in the aggregate. Hunting days that occur after January 31 should be concurrent with California's North Coast Special Management Area.

Utah

A Canada and cackling goose and brant season may be selected in the Wasatch Front Zone with outside dates between the Saturday nearest September 24 (September 25) and the first Sunday in February (February 6).

Washington

The daily bag limit for light geese is 10 on or before the last Sunday in January (January 30).

Areas 2 Inland and 2 Coastal (Southwest Permit Zone): A Canada and cackling goose season may be selected in each zone with outside dates between the Saturday nearest September 24 (September 25) and March 10. Canada and cackling goose and white-fronted goose seasons may be split into 3 segments.

Area 4: Canada and cackling goose and white-fronted goose seasons may be split into 3 segments.

Permit Zones

In Oregon and Washington permit zones, the hunting season is closed on dusky Canada geese. A dusky Canada goose is any dark-breasted Canada goose (Munsell 10 YR color value 5 or less) with a bill length between 40 and 50 millimeters. Hunting of geese will only be by hunters possessing a State-issued permit authorizing them to do so.

Shooting hours for geese may begin no earlier than sunrise. Regular Canada and cackling goose seasons in the permit zones of Oregon and Washington remain subject to the Memorandum of Understanding entered into with the Service regarding monitoring the impacts of take during the regular Canada and cackling goose season on the dusky Canada goose population.

Swans

Pacific Flyway

In portions of the Pacific Flyway (Idaho, Montana, Nevada, and Utah), an open season for taking a limited number of swans may be selected. These seasons are also subject to the following conditions:

Outside Dates: Between the Saturday nearest September 24 (September 25) and January 31.

Hunting Seasons: Seasons may not exceed 107 days, and may be split into 2 segments.

Permits: Swan hunting is by permit only. Permits will be issued by the State and will authorize each permittee to take no more than 1 swan per season with each permit. Only 1 permit may be issued per hunter in Montana and Utah, 2 permits may be issued per hunter in Nevada. The total number of permits issued may not exceed 50 in Idaho, 500 in Montana, 650 in Nevada, and 2,750 in Utah.

Quotas: The swan season in the respective State must end upon attainment of the following reported harvest of trumpeter swans: 20 in Utah and 10 in Nevada. There is no quota in Montana.

Monitoring: Each State must evaluate hunter participation, species-specific swan harvest, and hunter compliance in providing either species-determinant parts (at least the intact head) or bill measurements (bill length from tip to posterior edge of the nares opening, and presence or absence of yellow lore spots on the bill in front of the eyes) of harvested swans for species identification. Each State should use appropriate measures to maximize hunter compliance with the State's program for swan harvest reporting. Each State must achieve a hunter compliance of at least 80 percent in providing species-determinant parts or bill measurements of harvested swans for species identification or subsequent permits will be reduced by 10 percent in the respective State. Each State must provide to the Service by June 30 following the swan season a report detailing hunter participation, species-specific swan harvest, and hunter compliance in reporting harvest. In Idaho and Montana, all hunters that harvest a swan must complete and submit a reporting card (bill card) with the bill measurement and color information from the harvested swan within 72 hours of harvest for species determination. In Utah and Nevada, all hunters that harvest a swan must have the swan or species-determinant parts examined by a State or Federal biologist within 72 hours of harvest for species determination.

Other Provisions: In Utah, the season is subject to the terms of the Memorandum of Agreement entered into with the Service in January 2019 regarding harvest monitoring, season closure procedures, and education requirements to minimize take of trumpeter swans during the swan season.

Atlantic and Central Flyways

In portions of the Atlantic Flyway (Delaware, North Carolina, and Virginia) and the Central Flyway (North Dakota, South Dakota [east of the Missouri River], and that portion of Montana in the Central Flyway), an open season for taking a limited number of swans may be selected. Permits will be issued by the States that authorize the take of no more than 1 swan per permit. A second permit may be issued to hunters from unused permits remaining after the first drawing.

Monitoring: Each State must evaluate hunter participation, species-specific swan harvest, and hunter compliance in providing measurements of harvested swans for species identification. Each State should use appropriate measures to maximize hunter compliance with the State's program for swan harvest reporting. Each State must achieve a hunter compliance of at least 80 percent in providing species-determinant measurements of harvested swans for species identification. Each State must provide to the Service by June 30 following the swan season a report detailing hunter participation, species-specific swan harvest, and hunter compliance in reporting harvest.

In lieu of a general swan hunting season, States may select a season only for tundra swans. States selecting a season only for tundra swans must obtain harvest and hunter participation data.

These general swan seasons and tundra swan seasons are also subject to the following conditions:

In the Atlantic Flyway

—The season may be 90 days, between October 1 and January 31.
—In Delaware, no more than 67 permits may be issued. The season is experimental.
—In North Carolina, no more than 4,895 permits may be issued.
—In Virginia, no more than 638 permits may be issued.

In the Central Flyway

—The season may be 107 days, between the Saturday nearest October 1 (October 2) and January 31.
—In the Central Flyway portion of Montana, no more than 500 permits may be issued.
—In North Dakota, no more than 2,200 permits may be issued.
—In South Dakota, no more than 1,300 permits may be issued.

Sandhill Cranes

Regular Seasons in the Mississippi Flyway

Outside Dates: Between September 1 and February 28 in Minnesota, and between September 1 and January 31 in Alabama, Kentucky and Tennessee.

Hunting Seasons: A season not to exceed 37 consecutive days may be selected in the designated portion of northwestern Minnesota (Northwest Goose Zone), and a season not to exceed 60 consecutive days in Alabama, Kentucky, and Tennessee. The season in Alabama is experimental.

Daily Bag Limit: 1 sandhill crane in Minnesota, 2 sandhill cranes in Kentucky, and 3 sandhill cranes in Alabama and Tennessee. In Alabama, Kentucky, and Tennessee, the seasonal bag limit is 3 sandhill cranes.

Permits: Each person participating in the regular sandhill crane seasons must have a valid State sandhill crane hunting permit.

Other Provisions: The number of permits (where applicable), open areas, season dates, protection plans for other species, and other provisions of seasons must be consistent with the management plans and approved by the Mississippi Flyway Council.

Regular Seasons in the Central Flyway

Outside Dates: Between September 1 and February 28.

Hunting Seasons: Seasons not to exceed 37 consecutive days may be selected in a designated portion of Texas (Zone C). Seasons not to exceed 58 consecutive days may be selected in designated portions of the following States: Colorado, Kansas, Montana, North Dakota, South Dakota, and Wyoming. Seasons not to exceed 93 consecutive days may be selected in designated portions of the following States: New Mexico, Oklahoma, and Texas.

Daily Bag Limits: 3 sandhill cranes, except 2 sandhill cranes in designated portions of North Dakota (Area 2) and Texas (Zone C).

Permits: Each person participating in the regular sandhill crane season must have a valid Federal or State sandhill crane hunting permit.

Special Seasons in the Central and Pacific Flyways

Arizona, Colorado, Idaho, Montana, New Mexico, Utah, and Wyoming may select seasons for hunting sandhill cranes within the range of the Rocky Mountain Population (RMP) of sandhill cranes subject to the following conditions:

Outside Dates: Between September 1 and January 31.

Hunting Seasons: The season in any State or zone may not exceed 60 days, and may be split into 3 segments.

Bag limits: Not to exceed 3 daily and 9 per season.

Permits: Participants must have a valid permit, issued by the appropriate State, in their possession while hunting.

Other Provisions: Numbers of permits, open areas, season dates, protection plans for other species, and other provisions of seasons must be consistent with the management plan and approved by the Central and Pacific Flyway Councils, with the following exceptions:

A. In Utah, 100 percent of the harvest will be assigned to the RMP crane quota;

B. In Arizona, monitoring the racial composition of the harvest must be conducted at 3-year intervals unless 100 percent of the harvest will be assigned to the RMP crane quota;

C. In Idaho, 100 percent of the harvest will be assigned to the RMP crane quota; and

D. In the Estancia Valley hunt area of New Mexico, the level and racial composition of the harvest must be monitored; greater sandhill cranes in the harvest will be assigned to the RMP crane quota.

Gallinules

Outside Dates: Between September 1 and January 31 in the Atlantic, Mississippi, and Central Flyways. States in the Pacific Flyway may select their hunting seasons between the outside dates for the season on ducks, mergansers, and coots; therefore, Pacific Flyway frameworks for gallinules are included with the duck, merganser, and coot frameworks.

Hunting Seasons and Daily Bag Limits: Seasons may not exceed 70 days in the Atlantic, Mississippi, and Central Flyways. Seasons may be split into 2 segments. The daily bag limit is 15 gallinules in the aggregate.

Zoning: Seasons may be selected by zones established for duck hunting.

Rails

Outside Dates: States included herein may select seasons between September 1 and January 31 on clapper, king, sora, and Virginia rails.

Hunting Seasons: Seasons may not exceed 70 days, and may be split into 2 segments.

Daily Bag Limits

Clapper and King Rails: In Connecticut, Delaware, Maryland, New Jersey, and Rhode Island, 10 rails in the aggregate. In Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Texas, and Virginia, 15 rails in the aggregate.

Sora and Virginia Rails: In the Atlantic, Mississippi, and Central Flyways and the Pacific Flyway portions of Colorado, Montana, New Mexico, and Wyoming, 25 rails in the aggregate. The season is closed in the remainder of the Pacific Flyway.

Snipe

Outside Dates: Between September 1 and February 28, except in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, Vermont, and Virginia, where the season must end no later than January 31.

Hunting Seasons and Daily Bag Limits: Seasons may not exceed 107 days and may be split into 2 segments. The daily bag limit is 8 snipe.

Zoning: Seasons may be selected by zones established for duck hunting.

American Woodcock

Outside Dates: States in the Eastern and Central Management Regions may select hunting seasons between September 13 and January 31.

Hunting Seasons and Daily Bag Limits: Seasons may not exceed 45 days in the Eastern and Central Regions. The daily bag limit is 3. Seasons may be split into 2 segments.

Zoning: New Jersey may select seasons in each of two zones. The season in each zone may not exceed 36 days.

Band-Tailed Pigeons

Pacific Coast States (California, Oregon, Washington, and Nevada)

Outside Dates: Between September 15 and January 1.

Hunting Seasons and Daily Bag Limits: Not more than 9 consecutive days, with a daily bag limit of 2.

Zoning: California may select hunting seasons not to exceed 9 consecutive days in each of 2 zones. The season in the North Zone must close by October 3.

Four-Corners States (Arizona, Colorado, New Mexico, and Utah)

Outside Dates: Between September 1 and November 30.

Hunting Seasons and Daily Bag Limits: Not more than 14 consecutive days, with a daily bag limit of 2.

Zoning: New Mexico may select hunting seasons not to exceed 14 consecutive days in each of 2 zones. The season in the South Zone may not open until October 1.

Doves

Outside Dates: Between September 1 and January 31 in the Eastern Management Unit, and between September 1 and January 15 in the Central and Western Management Units, except as subsequently provided, States may select hunting seasons and daily bag limits as follows:

Eastern Management Unit

Hunting Seasons and Daily Bag Limits: Not more than 90 days, with a daily bag limit of 15 mourning and white-winged doves in the aggregate.

Zoning and Split Seasons: Seasons may be split into 3 segments; Alabama, Louisiana, and Mississippi may select seasons in each of 2 zones, and may split their season in each zone into 3 segments.

Central Management Unit

For All States Except Texas

Hunting Seasons and Daily Bag Limits: Not more than 90 days, with a daily bag limit of 15 mourning and white-winged doves in the aggregate.

Zoning and Split Seasons: Seasons may be split into 3 segments; New Mexico may select seasons in each of 2 zones and may split their season in each zone into 3 segments.

Texas

Hunting Seasons and Daily Bag Limits: Not more than 90 days, with a daily bag limit of 15 mourning, white-winged, and white-tipped doves in the aggregate, of which no more than 2 may be white-tipped doves.

Zoning and Split Seasons: Texas may select hunting seasons for each of 3 zones subject to the following conditions:

A. The season may be split into 2 segments, except in that portion of Texas in which the special white-winged dove season is allowed, where a limited take of mourning and white-tipped doves may also occur during that

special season (see Special White-winged Dove Area in Texas, below).

B. A season may be selected for the North and Central Zones between September 1 and January 25; and for the South Zone between September 14 and January 25.

Special White-Winged Dove Area in Texas

In addition, Texas may select a hunting season of not more than 6 days, consisting of two 3-consecutive-day periods, for the Special White-winged Dove Area between September 1 and September 19. The daily bag limit may not exceed 15 white-winged, mourning, and white-tipped doves in the aggregate, of which no more than 2 may be mourning doves and no more than 2 may be white-tipped doves. Shooting hours are from noon to sunset.

Western Management Unit

Hunting Seasons and Daily Bag Limits

Idaho, Nevada, Oregon, Utah, and Washington: Not more than 60 days. The daily bag limit is 15 mourning and white-winged doves in the aggregate.

Arizona and *California:* Not more than 60 days, which may be split between 2 segments, September 1–15 and November 1–January 15. In Arizona, during the first segment of the season, the daily bag limit is 15 mourning and white-winged doves in the aggregate, of which no more than 10 could be white-winged doves. During the remainder of the season, the daily bag limit is 15 mourning doves. In California, the daily bag limit is 15 mourning and white-winged doves in the aggregate, of which no more than 10 could be white-winged doves.

Zoning and Split Seasons: Arizona, California, Idaho, Nevada, Utah, and Washington may split their seasons into 2 segments. Oregon may select hunting seasons in each of 2 zones and may split their season in each zone into 2 segments.

Alaska

Outside Dates: Between September 1 and January 26.

Hunting Seasons: Except as subsequently provided, not more than 107 consecutive days for waterfowl (except brant), sandhill cranes, and snipe concurrent in each of 5 zones. The season length for brant will be determined based on the upcoming brant winter survey results and the Pacific brant harvest strategy. The season may be split into 2 segments in the Southeast Zone.

Closures: The hunting season is closed on spectacled eiders and Steller's eiders.

Daily Bag and Possession Limits

Ducks: Except as subsequently provided, the basic daily bag limit is 7 ducks. Basic daily bag limit in the North Zone is 10, and in the Gulf Coast Zone is 8. The basic daily bag limits may include no more than 2 canvasbacks daily and may not include sea ducks.

In addition to the basic daily bag limits, Alaska may select sea duck limits of 10 daily in the aggregate, including no more than 6 each of either harlequin or long-tailed ducks. Sea ducks include scoters, common and king eiders, harlequin ducks, long-tailed ducks, and common, hooded, and red-breasted mergansers.

Light Geese: The daily bag limit is 6.

Canada and Cackling Geese: The daily bag limit is 4 Canada and cackling geese in the aggregate with the following exceptions:

A. In Units 5 and 6, the taking of Canada and cackling geese is permitted from September 28 through December 16.

B. On Middleton Island in Unit 6, a special, permit-only Canada and cackling goose season may be offered. A mandatory goose identification class is required. Hunters must check in and check out. The daily bag and possession limits are 1 Canada or cackling goose. The season will close if incidental harvest includes 5 dusky Canada geese. A dusky Canada goose is any dark-breasted Canada goose (Munsell 10 YR color value 5 or less) with a bill length between 40 and 50 millimeters.

C. In Units 9, 10, 17, and 18, the daily bag limit is 6 Canada and cackling geese in the aggregate.

White-fronted Geese: The daily bag limit is 4 with the following exceptions:

A. In Units 9, 10, and 17, the daily bag limit is 6 white-fronted geese.

B. In Unit 18, the daily bag limit is 10 white-fronted geese.

Emperor Geese: Open seasons for emperor geese may be selected subject to the following conditions:

A. All seasons are by permit only.

B. No more than 1 emperor goose may be harvested per hunter per season.

C. Total harvest may not exceed 500 emperor geese.

D. In State Game Management Unit 8, the Kodiak Island Road Area is closed to hunting. The Kodiak Island Road Area consists of all lands and water (including exposed tidelands) east of a line extending from Crag Point in the north to the west end of Saltery Cove in the south and all lands and water south of a line extending from Termination Point along the north side of Cascade Lake extending to Anton Larsen Bay. Marine waters adjacent to the closed area are closed to harvest within 500 feet from the water's edge. The offshore islands are open to harvest, for example: Woody, Long, Gull, and Puffin islands.

Brant: The daily bag limit is 4.

Snipe: The daily bag limit is 8.

Sandhill Cranes: The daily bag limit is 2 in the Southeast, Gulf Coast, Kodiak, and Aleutian Zones, and Unit 17 in the North Zone. In the remainder of the North Zone (outside Unit 17), the daily bag limit is 3.

Tundra Swans: Open seasons for tundra swans may be selected subject to the following conditions:

A. All seasons are by permit only.

B. All season framework dates are September 1–October 31.

C. In Unit 17, no more than 200 permits may be issued during this operational season. No more than 3 tundra swans may be authorized per permit, with no more than 1 permit issued per hunter per season.

D. In Unit 18, no more than 500 permits may be issued during the operational season. No more than 3 tundra swans may be authorized per permit. No more than 1 permit may be issued per hunter per season.

E. In Unit 22, no more than 300 permits may be issued during the operational season. No more than 3 tundra swans may be authorized per permit. No more than 1 permit may be issued per hunter per season.

F. In Unit 23, no more than 300 permits may be issued during the operational season. No more than 3 tundra swans may be authorized per permit. No more than 1 permit may be issued per hunter per season.

Hawaii

Outside Dates: Between October 1 and January 31.

Hunting Seasons: Not more than 65 days (75 under the alternative) for mourning doves.

Bag Limits: Not to exceed 15 (12 under the alternative) mourning doves.

Note: Mourning doves may be taken in Hawaii in accordance with shooting hours and other regulations set by the State of Hawaii, and subject to the applicable provisions of 50 CFR part 20.

Puerto Rico

Doves and Pigeons

Outside Dates: Between September 1 and January 15.

Hunting Seasons: Not more than 60 days.

Daily Bag and Possession Limits: Not to exceed 30 Zenaida, mourning, and white-winged doves in the aggregate, of which not more than 10 may be Zenaida doves and 3 may be mourning doves. Not to exceed 5 scaly-naped pigeons.

Closed Seasons: The season is closed on the white-crowned pigeon and the plain pigeon, which are protected by the Commonwealth of Puerto Rico.

Closed Areas: There is no open season on doves or pigeons in the following areas: Municipality of Culebra, Desecheo Island, Mona Island, El Verde Closure Area, and Cidra Municipality and adjacent areas.

Ducks, Coots, Gallinules, and Snipe

Outside Dates: Between October 1 and January 31.

Hunting Seasons: Not more than 55 days may be selected for hunting ducks, common gallinules, and snipe. The season may be split into 2 segments.

Daily Bag Limits

Ducks: Not to exceed 6 ducks.

Common Gallinules: Not to exceed 6 common gallinules.

Snipe: Not to exceed 8 snipe.

Closed Seasons: The season is closed on ruddy duck, white-cheeked pintail, West Indian whistling duck, fulvous whistling duck, and masked duck, which are protected by the Commonwealth of Puerto Rico. The season is closed for purple gallinule, American coot, and Caribbean coot.

Closed Areas: There is no open season on ducks, common gallinules, and snipe in the Municipality of Culebra and on Desecheo Island.

Virgin Islands

Doves and Pigeons

Outside Dates: Between September 1 and January 15.

Hunting Seasons: Not more than 60 consecutive days.

Daily Bag and Possession Limits: Not to exceed 10 Zenaida doves.

Closed Seasons: No open season is prescribed for ground or quail doves or pigeons.

Closed Areas: There is no open season for migratory game birds on Ruth Cay (just south of St. Croix).

Local Names for Certain Birds: Zenaida dove, also known as mountain dove; bridled quail-dove, also known as Barbary dove or partridge; common ground-dove, also known as stone dove, tobacco dove, rola, or tortolita; scaly-naped pigeon, also known as red-necked or scaled pigeon.

Ducks

Outside Dates: Between December 1 and January 31.

Hunting Seasons: Not more than 55 consecutive days.

Daily Bag Limits: Not to exceed 6 ducks.

Closed Seasons: The season is closed on the ruddy duck, white-cheeked pintail, West Indian whistling duck, fulvous whistling duck, and masked duck.

Special Falconry Regulations

In accordance with 50 CFR 21.29, falconry is a permitted means of taking migratory game birds in any State except for Hawaii. States may select an extended season for taking migratory game birds in accordance with the following:

Extended Seasons: For all hunting methods combined, the combined length of the extended season, regular season, and any special or experimental seasons must not exceed 107 days for any species or group of species in a geographical area. Each extended season may be split into 3 segments.

Outside Dates: Seasons must fall between September 1 and March 10.

Daily Bag Limits: Falconry daily bag limits for all permitted migratory game birds must not exceed 3 birds in the aggregate, during extended falconry seasons, any special or experimental seasons, and regular hunting seasons in all States, including those that do not select an extended falconry season.

Regular Seasons: General hunting regulations, including seasons and hunting hours, apply to falconry. Regular season bag limits do not apply to falconry. The falconry bag limit is not in addition to shooting limits.

Area, Unit, and Zone Descriptions

Ducks (Including Mergansers) and Coots

Atlantic Flyway

Connecticut

North Zone: That portion of the State north of I–95.

South Zone: Remainder of the State.

Maine

North Zone: That portion north of the line extending east along Maine State Highway 110 from the New Hampshire-Maine State line to the intersection of Maine State Highway 11 in Newfield; then north and east along Route 11 to the intersection of U.S. Route 202 in Auburn; then north and east on Route 202 to the intersection of I–95 in Augusta; then north and east along I–95 to Route 15 in Bangor; then east along Route 15 to Route 9; then east along Route 9 to Stony Brook in Baileyville; then east along Stony Brook to the U.S. border.

Coastal Zone: That portion south of a line extending east from the Maine-New Brunswick border in Calais at the Route 1 Bridge; then south along Route 1 to the Maine-New Hampshire border in Kittery.

South Zone: Remainder of the State.

Maryland

Western Zone: Allegany, Carroll, Garrett, Frederick and Washington Counties; and those portions of Baltimore, Howard, Prince George's, and Montgomery Counties west of a line beginning at I–83 at the Pennsylvania State line, following I–83 south to the intersection of I–83 and I–695 (Outer Loop), south following I–695 (Outer Loop) to its intersection with I–95, south following I–95 to its intersection with I–495 (Outer Loop), and following I–495 (Outer Loop) to the Virginia shore of the Potomac River.

Eastern Zone: That portion of the State not included in the Western Zone.

Special Teal Season Area: Calvert, Caroline, Cecil, Dorchester, Harford, Kent, Queen Anne's, St. Mary's, Somerset, Talbot, Wicomico, and Worcester Counties; that part of Anne Arundel County east of Interstate 895, Interstate 97, and Route 3; that part of Prince George's County east of Route 3 and Route 301; and that part of Charles County east of Route 301 to the Virginia State Line.

Massachusetts

Western Zone: That portion of the State west of a line extending south from the Vermont State line on I–91 to MA 9, west on MA 9 to MA 10, south on MA 10 to U.S. 202, south on U.S. 202 to the Connecticut State line.

Central Zone: That portion of the State east of the Berkshire Zone and west of a line extending south from the New Hampshire State line on I–95 to U.S. 1, south on U.S. 1 to I–93, south on I–93 to MA 3, south on MA 3 to U.S. 6, west on U.S. 6 to MA 28, west on MA 28 to I–195, west to the Rhode Island State line; except the waters, and the lands 150 yards inland from the high-water mark, of the Assonet River upstream to the MA 24 bridge, and the Taunton River upstream to the Center Street-Elm Street bridge shall be in the Coastal Zone.

Coastal Zone: That portion of Massachusetts east and south of the Central Zone.

New Hampshire

Northern Zone: That portion of the State east and north of the Inland Zone beginning at the Jct. of Route 10 and Route 25–A in Orford, east on Route 25–A to Route 25 in Wentworth, southeast on Route 25 to Exit 26 of Route I–93 in Plymouth, south on Route I–93 to Route 3 at Exit 24 of Route I–93 in Ashland, northeast on Route 3 to Route 113 in Holderness, north on Route 113 to Route 113–A in Sandwich, north on Route 113–A to Route 113 in Tamworth, east

on Route 113 to Route 16 in Chocorua, north on Route 16 to Route 302 in Conway, east on Route 302 to the Maine-New Hampshire border.

Inland Zone: That portion of the State south and west of the Northern Zone, west of the Coastal Zone, and includes the area of Vermont and New Hampshire as described for hunting reciprocity. A person holding a New Hampshire hunting license that allows the taking of migratory waterfowl or a person holding a Vermont resident hunting license that allows the taking of migratory waterfowl may take migratory waterfowl and coots from the following designated area of the Inland Zone: The State of Vermont east of Route I–91 at the Massachusetts border, north on Route I–91 to Route 2, north on Route 2 to Route 102, north on Route 102 to Route 253, and north on Route 253 to the border with Canada and the area of New Hampshire west of Route 63 at the Massachusetts border, north on Route 63 to Route 12, north on Route 12 to Route 12–A, north on Route 12–A to Route 10, north on Route 10 to Route 135, north on Route 135 to Route 3, north on Route 3 to the intersection with the Connecticut River.

Coastal Zone: That portion of the State east of a line beginning at the Maine-New Hampshire border in Rollinsford, then extending to Route 4 west to the city of Dover, south to the intersection of Route 108, south along Route 108 through Madbury, Durham, and Newmarket to the junction of Route 85 in Newfields, south to Route 101 in Exeter, east to Interstate 95 (New Hampshire Turnpike) in Hampton, and south to the Massachusetts border.

New Jersey

Coastal Zone: That portion of the State seaward of a line beginning at the New York State line in Raritan Bay and extending west along the New York State line to NJ 440 at Perth Amboy; west on NJ 440 to the Garden State Parkway; south on the Garden State Parkway to NJ 109; south on NJ 109 to Cape May County Route 633 (Lafayette Street); south on Lafayette Street to Jackson Street; south on Jackson Street to the shoreline at Cape May; west along the shoreline of Cape May beach to COLREGS Demarcation Line 80.503 at Cape May Point; south along COLREGS Demarcation Line 80.503 to the Delaware State line in Delaware Bay.

North Zone: That portion of the State west of the Coastal Zone and north of a line extending west from the Garden State Parkway on NJ 70 to the New Jersey Turnpike, north on the turnpike to U.S. 206, north on U.S. 206 to U.S. 1 at Trenton, west on U.S. 1 to the Pennsylvania State line in the Delaware River.

South Zone: That portion of the State not within the North Zone or the Coastal Zone.

New York

Lake Champlain Zone: That area east and north of a continuous line extending along U.S. 11 from the New York-Canada International boundary south to NY 9B, south along NY 9B to U.S. 9, south along U.S. 9 to NY 22 south of Keesville; south along NY 22 to the west shore of South Bay, along and around the shoreline of South Bay to NY 22 on the east shore of South Bay; southeast along NY 22 to U.S. 4, northeast along U.S. 4 to the Vermont State line.

Long Island Zone: That area consisting of Nassau County, Suffolk County, that area of Westchester County southeast of I–95, and their tidal waters.

Western Zone: That area west of a line extending from Lake Ontario east along the north shore of the Salmon River to I–81, and south along I–81 to the Pennsylvania State line.

Northeastern Zone: That area north of a continuous line extending from Lake Ontario east along the north shore of the Salmon River to I–81, south along I–81 to NY 31, east along NY 31 to NY 13, north along NY 13 to NY 49, east along NY 49 to NY 365, east along NY 365 to NY 28, east along NY 28 to NY 29, east along NY 29 to NY 22, north along NY 22 to Washington County Route 153, east along CR 153 to the New York-Vermont boundary, exclusive of the Lake Champlain Zone.

Southeastern Zone: The remaining portion of New York.

North Carolina

Coastal Zone: All counties and portions of counties east of I–95.

Inland Zone: All counties and portions of counties west of I–95.

Pennsylvania

Lake Erie Zone: The Lake Erie waters of Pennsylvania and a shoreline margin along Lake Erie from New York on the east to Ohio on the west extending 150 yards inland, but including all of Presque Isle Peninsula.

Northwest Zone: The area bounded on the north by the Lake Erie Zone and including all of Erie and Crawford Counties and those portions of Mercer and Venango Counties north of I–80.

North Zone: That portion of the State east of the Northwest Zone and north of a line extending east on I–80 to U.S. 220, Route 220 to I–180, I–180 to I–80, and I–80 to the Delaware River.

South Zone: The remaining portion of Pennsylvania.

Vermont

Lake Champlain Zone: The U.S. portion of Lake Champlain and that area north and west of the line extending from the New York border along U.S. 4 to VT 22A at Fair Haven; VT 22A to U.S. 7 at Vergennes; U.S. 7 to VT 78 at Swanton; VT 78 to VT 36; VT 36 to Maquam Bay on Lake Champlain; along and around the shoreline of Maquam Bay and Hog Island to VT 78 at the West Swanton Bridge; VT 78 to VT 2 in Alburg; VT 2 to the Richelieu River in Alburg; along the east shore of the Richelieu River to the Canadian border.

Interior Zone: That portion of Vermont east of the Lake Champlain Zone and west of a line extending from the Massachusetts border at Interstate 91; north along Interstate 91 to U.S. 2; east along U.S. 2 to VT 102; north along VT 102 to VT 253; north along VT 253 to the Canadian border.

Connecticut River Zone: The remaining portion of Vermont east of the Interior Zone.

Virginia

Western Zone: All counties and portions of counties west of I–95.

Eastern Zone: All counties and portions of counties east of I–95.

Mississippi Flyway

Illinois

North Zone: That portion of the State north of a line extending west from the Indiana border along Peotone-Beecher Road to Illinois Route 50, south along Illinois Route 50 to Wilmington-Peotone Road, west along Wilmington-Peotone Road to Illinois Route 53, north along Illinois Route 53 to New River Road, northwest along New River Road to Interstate Highway 55, south along I–55 to Pine Bluff-Lorenzo Road, west along Pine Bluff-Lorenzo Road to Illinois Route 47, north along Illinois Route 47 to I–80, west along I–80 to I–39, south along I–39 to Illinois Route 18, west along Illinois Route 18 to Illinois Route 29, south along Illinois Route 29 to Illinois Route 17, west along Illinois Route 17 to the Mississippi River, and due south across the Mississippi River to the Iowa border.

Central Zone: That portion of the State south of the North Duck Zone line to a line extending west from the Indiana border along I–70 to Illinois Route 4, south along Illinois Route 4 to Illinois Route 161, west along Illinois Route 161 to Illinois Route 158, south and west along Illinois Route 158 to Illinois Route 159, south along Illinois Route 159 to Illinois Route 3, south along Illinois Route 3 to St. Leo's Road, south along St. Leo's Road to Modoc

Road, west along Modoc Road to Modoc Ferry Road, southwest along Modoc Ferry Road to Levee Road, southeast along Levee Road to County Route 12 (Modoc Ferry entrance Road), south along County Route 12 to the Modoc Ferry route and southwest on the Modoc Ferry route across the Mississippi River to the Missouri border.

South Zone: That portion of the State south and east of a line extending west from the Indiana border along Interstate 70, south along U.S. Highway 45, to Illinois Route 13, west along Illinois Route 13 to Greenbriar Road, north on Greenbriar Road to Sycamore Road, west on Sycamore Road to N. Reed Station Road, south on N. Reed Station Road to Illinois Route 13, west along Illinois Route 13 to Illinois Route 127, south along Illinois Route 127 to State Forest Road (1025 N), west along State Forest Road to Illinois Route 3, north along Illinois Route 3 to the south bank of the Big Muddy River, west along the south bank of the Big Muddy River to the Mississippi River, west across the Mississippi River to the Missouri border.

South Central Zone: The remainder of the State between the south border of the Central Zone and the North border of the South Zone.

Indiana

North Zone: That part of Indiana north of a line extending east from the Illinois border along State Road 18 to U.S. 31; north along U.S. 31 to U.S. 24; east along U.S. 24 to Huntington; southeast along U.S. 224; south along State Road 5; and east along State Road 124 to the Ohio border.

Central Zone: That part of Indiana south of the North Zone boundary and north of the South Zone boundary.

South Zone: That part of Indiana south of a line extending east from the Illinois border along I–70; east along National Ave.; east along U.S. 150; south along U.S. 41; east along State Road 58; south along State Road 37 to Bedford; and east along U.S. 50 to the Ohio border.

Iowa

North Zone: That portion of Iowa north of a line beginning on the South Dakota-Iowa border at Interstate 29, southeast along Interstate 29 to State Highway 20 to the Iowa-Illinois border. The south duck hunting zone is that part of Iowa west of Interstate 29 and south of State Highway 92 east to the Iowa-Illinois border. The central duck hunting zone is the remainder of the State.

Central Zone: The remainder of Iowa not included in the North and South zones.

South Zone: The south duck hunting zone is that part of Iowa west of Interstate 29 and south of State Highway 92 east to the Iowa-Illinois border.

Kentucky

West Zone: All counties west of and including Butler, Daviess, Ohio, Simpson, and Warren Counties.

East Zone: The remainder of Kentucky.

Louisiana

East Zone: That area of the State beginning at the Arkansas border, then south on U.S. Hwy 79 to State Hwy 9, then south on State Hwy 9 to State Hwy 147, then south on State Hwy 147 to U.S. Hwy 167, then south and east on U.S. Hwy 167 to U.S. Hwy 90, then south on U.S. Hwy 90 to the Mississippi State line.

West Zone: Remainder of the State.

Michigan

North Zone: The Upper Peninsula.

Middle Zone: That portion of the Lower Peninsula north of a line beginning at the Michigan-Wisconsin boundary line in Lake Michigan, directly due west of the mouth of Stoney Creek in section 31, T14N R18W, Oceana County, then proceed easterly and southerly along the centerline of Stoney Creek to its intersection with Scenic Drive, southerly on Scenic Drive to Stoney Lake Road in section 5, T13N R18W, Oceana County, easterly on Stoney Lake Road then both west and east Garfield Roads (name change only; not an intersection) then crossing highway U.S.–31 to State Highway M–20 (north of the town of New Era; also locally named Hayes Road) in section 33, T14N R17W, Oceana County, easterly on M–20 through Oceana, Newaygo, Mecosta, Isabella, and Midland Counties to highway U.S.–10 business route in the city of Midland, easterly on U.S.–10 BR to highway U.S.–10 at the Bay County line, easterly on U.S.–10 then crossing U.S.–75 to State Highway M–25 (west of the town of Bay City), easterly along M–25 into Tuscola County then northeasterly and easterly on M–25 through Tuscola County into Huron County, turning southeasterly on M–25 (near the town of Huron City; also locally named North Shore Road) to the centerline of Willow Creek in section 4, T18N R14E, Huron County, then northerly along the centerline of Willow Creek to the mouth of Willow Creek into Lake Huron, then directly due east along a line from the mouth of Willow Creek heading east into Lake Huron to a point due east and on the Michigan/U.S.-Canadian border.

South Zone: The remainder of Michigan.

Minnesota

North Duck Zone: That portion of the State north of a line extending east from the North Dakota State line along State Highway 210 to State Highway 23 and east to State Highway 39 and east to the Wisconsin State line at the Oliver Bridge.

South Duck Zone: The portion of the State south of a line extending east from the South Dakota State line along U.S. Highway 212 to Interstate 494 and east to Interstate 94 and east to the Wisconsin State line.

Central Duck Zone: The remainder of the State.

Missouri

North Zone: That portion of Missouri north of a line running west from the Illinois border at I–70; west on I–70 to Hwy 65; north on Hwy 65 to Hwy 41, north on Hwy 41 to Hwy 24; west on Hwy 24 to MO Hwy 10, west on Hwy 10 to Hwy 69, north on Hwy 69 to MO Hwy 116, west on MO Hwy 116 to Hwy 59, south on Hwy 59 to the Kansas border.

Middle Zone: The remainder of Missouri not included in other zones.

South Zone: That portion of Missouri south of a line running west from the Illinois border on MO Hwy 74 to MO Hwy 25; south on MO Hwy 25. to U.S. Hwy 62; west on U.S. Hwy 62 to MO Hwy 53; north on MO Hwy 53 to MO Hwy 51; north on MO Hwy 51 to U.S. Hwy 60; west on U.S. Hwy 60 to MO Hwy 21; north on MO Hwy 21 to MO Hwy 72; west on MO Hwy 72 to MO Hwy 32; west on MO Hwy 32 to U.S. Hwy 65; north on U.S. Hwy 65 to U.S. Hwy 54; west on U.S. Hwy 54 to the Kansas border.

Ohio

Lake Erie Marsh Zone: Includes all land and water within the boundaries of the area bordered by a line beginning at the intersection of Interstate 75 at the Ohio-Michigan State line and continuing south to Interstate 280, then south on I–280 to the Ohio Turnpike (I–80/I–90), then east on the Ohio Turnpike to the Erie-Lorain County line, then north to Lake Erie, then following the Lake Erie shoreline at a distance of 200 yards offshore, then following the shoreline west toward and around the northern tip of Cedar Point Amusement Park, then continuing from the westernmost point of Cedar Point toward the southernmost tip of the sand bar at the mouth of Sandusky Bay and

out into Lake Erie at a distance of 200 yards offshore continuing parallel to the Lake Erie shoreline north and west toward the northernmost tip of Cedar Point National Wildlife Refuge, then following a direct line toward the southernmost tip of Wood Tick Peninsula in Michigan to a point that intersects the Ohio-Michigan State line, then following the State line back to the point of the beginning.

North Zone: That portion of the State, excluding the Lake Erie Marsh Zone, north of a line extending east from the Indiana State line along U.S. Highway (U.S.) 33 to State Route (SR) 127, then south along SR 127 to SR 703, then south along SR 703 and including all lands within the Mercer Wildlife Area to SR 219, then east along SR 219 to SR 364, then north along SR 364 and including all lands within the St. Mary's Fish Hatchery to SR 703, then east along SR 703 to SR 66, then north along SR 66 to U.S. 33, then east along U.S. 33 to SR 385, then east along SR 385 to SR 117, then south along SR 117 to SR 273, then east along SR 273 to SR 31, then south along SR 31 to SR 739, then east along SR 739 to SR 4, then north along SR 4 to SR 95, then east along SR 95 to SR 13, then southeast along SR 13 to SR 3, then northeast along SR 3 to SR 60, then north along SR 60 to U.S. 30, then east along U.S. 30 to SR 3, then south along SR 3 to SR 226, then south along SR 226 to SR 514, then southwest along SR 514 to SR 754, then south along SR 754 to SR 39/60, then east along SR 39/60 to SR 241, then north along SR 241 to U.S. 30, then east along U.S. 30 to SR 39, then east along SR 39 to the Pennsylvania State line.

South Zone: The remainder of Ohio not included in the Lake Erie Marsh Zone or the North Zone.

Tennessee

Reelfoot Zone: The lands and waters within the boundaries of Reelfoot Lake WMA only.

Remainder of State: That portion of Tennessee outside of the Reelfoot Zone.

Wisconsin

North Zone: That portion of the State north of a line extending east from the Minnesota State line along U.S. Highway 10 to U.S. Highway 41, then north on U.S. Highway 41 to the Michigan State line.

Open Water Zone: That portion of the State extending 500 feet or greater from the Lake Michigan shoreline bounded by the Michigan State line and the Illinois State line.

South Zone: The remainder of the State.

Central Flyway

Colorado (Central Flyway Portion)

Special Teal Season Area: Lake and Chaffee Counties and that portion of the State east of Interstate Highway 25.

Northeast Zone: All areas east of Interstate 25 and north of Interstate 70.

Southeast Zone: All areas east of Interstate 25 and south of Interstate 70, and all of El Paso, Pueblo, Huerfano, and Las Animas Counties.

Mountain/Foothills Zone: All areas west of Interstate 25 and east of the Continental Divide, except El Paso, Pueblo, Huerfano, and Las Animas Counties.

Kansas

High Plains: That portion of the State west of U.S. 283.

Low Plains Early Zone: That part of Kansas bounded by a line from the Federal Hwy U.S.–283 and State Hwy 96 junction, then east on State Hwy 96 to its junction with Federal Hwy U.S.–183, then north on Federal Hwy U.S.–183 to its junction with Federal Hwy U.S.–24, then east on Federal Hwy U.S.–24 to its junction with Federal Hwy U.S.–281, then north on Federal Hwy U.S.–281 to its junction with Federal Hwy U.S.–36, then east on Federal Hwy U.S.–36 to its junction with State Hwy K–199, then south on State Hwy K–199 to its junction with Republic County 30th Road, then south on Republic County 30th Road to its junction with State Hwy K–148, then east on State Hwy K–148 to its junction with Republic County 50th Road, then south on Republic County 50th Road to its junction with Cloud County 40th Road, then south on Cloud County 40th Road to its junction with State Hwy K–9, then west on State Hwy K–9 to its junction with Federal Hwy U.S.–24, then west on Federal Hwy U.S.–24 to its junction with Federal Hwy U.S.–181, then south on Federal Hwy U.S.–181 to its junction with State Hwy K–18, then west on State Hwy K–18 to its junction with Federal Hwy U.S.–281, then south on Federal Hwy U.S.–281 to its junction with State Hwy K–4, then east on State Hwy K–4 to its junction with interstate Hwy I–135, then south on interstate Hwy I–135 to its junction with State Hwy K–61, then southwest on State Hwy K–61 to its junction with McPherson County 14th Avenue, then south on McPherson County 14th Avenue to its junction with McPherson County Arapaho Road, then west on McPherson County Arapaho Road to its junction with State Hwy K–61, then southwest on State Hwy K–61 to its junction with State Hwy K–96, then northwest on State Hwy K–96 to its junction with Federal Hwy U.S.–56, then southwest on Federal Hwy U.S.–56 to its junction with State Hwy K–19, then east on State Hwy K–19 to its junction with Federal Hwy U.S.–281, then south on Federal Hwy U.S.–281 to its junction with Federal Hwy U.S.–54, then west on Federal Hwy U.S.–54 to its junction with Federal Hwy U.S.–183, then north on Federal Hwy U.S.–183 to its junction with Federal Hwy U.S.–56, then southwest on Federal Hwy U.S.–56 to its junction with North Main Street in Spearville, then south on North Main Street to Davis Street, then east on Davis Street to Ford County Road 126 (South Stafford Street), then south on Ford County Road 126 to Garnett Road, then east on Garnett Road to Ford County Road 126, then south on Ford County Road 126 to Ford Spearville Road, then west on Ford Spearville Road to its junction with Federal Hwy U.S.–400, then northwest on Federal Hwy U.S.–400 to its junction with Federal Hwy U.S.–283, and then north on Federal Hwy U.S.–283 to its junction with Federal Hwy U.S.–96.

Low Plains Late Zone: That part of Kansas bounded by a line from the Federal Hwy U.S.–283 and State Hwy 96 junction, then north on Federal Hwy U.S.–283 to the Kansas-Nebraska State line, then east along the Kansas-Nebraska State line to its junction with the Kansas-Missouri State line, then southeast along the Kansas-Missouri State line to its junction with State Hwy K–68, then west on State Hwy K–68 to its junction with interstate Hwy I–35, then southwest on interstate Hwy I–35 to its junction with Butler County NE 150th Street, then west on Butler County NE 150th Street to its junction with Federal Hwy U.S.–77, then south on Federal Hwy U.S.–77 to its junction with the Kansas-Oklahoma State line, then west along the Kansas-Oklahoma State line to its junction with Federal Hwy U.S.–283, then north on Federal Hwy U.S.–283 to its junction with Federal Hwy U.S.–400, then east on Federal Hwy U.S.–400 to its junction with Ford Spearville Road, then east on Ford Spearville Road to Ford County Road 126 (South Stafford Street), then north on Ford County Road 126 to Garnett Road, then west on Garnett Road to Ford County Road 126, then north on Ford County Road 126 to Davis Street, then west on Davis Street to North Main Street, then north on North Main Street to its junction with Federal Hwy U.S.–56, then east on Federal Hwy U.S.–56 to its junction with Federal Hwy U.S.–183, then south on Federal Hwy U.S.–183 to its junction with Federal Hwy U.S.–54, then east on

Federal Hwy U.S.–54 to its junction with Federal Hwy U.S.–281, then north on Federal Hwy U.S.–281 to its junction with State Hwy K–19, then west on State Hwy K–19 to its junction with Federal Hwy U.S.–56, then east on Federal Hwy U.S.–56 to its junction with State Hwy K–96, then southeast on State Hwy K–96 to its junction with State Hwy K–61, then northeast on State Hwy K–61 to its junction with McPherson County Arapaho Road, then east on McPherson County Arapaho Road to its junction with McPherson County 14th Avenue, then north on McPherson County 14th Avenue to its junction with State Hwy K–61, then east on State Hwy K–61 to its junction with interstate Hwy I–135, then north on interstate Hwy I–135 to its junction with State Hwy K–4, then west on State Hwy K–4 to its junction with Federal Hwy U.S.–281, then north on Federal Hwy U.S.–281 to its junction with State Hwy K–18, then east on State Hwy K–18 to its junction with Federal Hwy U.S.–181, then north on Federal Hwy U.S.–181 to its junction with Federal Hwy U.S.–24, then east on Federal Hwy U.S.–24 to its junction with State Hwy K–9, then east on State Hwy K–9 to its junction with Cloud County 40th Road, then north on Cloud County 40th Road to its junction with Republic County 50th Road, then north on Republic County 50th Road to its junction with State Hwy K–148, then west on State Hwy K–148 to its junction with Republic County 30th Road, then north on Republic County 30th Road to its junction with State Hwy K–199, then north on State Hwy K–199 to its junction with Federal Hwy U.S.–36, then west on Federal Hwy U.S.–36 to its junction with Federal Hwy U.S.–281, then south on Federal Hwy U.S.–281 to its junction with Federal Hwy U.S.–24, then west on Federal Hwy U.S.–24 to its junction with Federal Hwy U.S.–183, then south on Federal Hwy U.S.–183 to its junction with Federal Hwy U.S.–96, and then west on Federal Hwy U.S.–96 to its junction with Federal Hwy U.S.–283.

Low Plains Southeast Zone: That part of Kansas bounded by a line from the Missouri-Kansas State line west on K–68 to its junction with I–35, then southwest on I–35 to its junction with Butler County, NE 150th Street, then west on NE 150th Street to its junction with Federal Hwy U.S.–77, then south on Federal Hwy U.S.–77 to the Oklahoma-Kansas State line, then east along the Kansas-Oklahoma State line to its junction with the Kansas-Missouri State line, then north along the Kansas-Missouri State line to its junction with State Hwy K–68.

Montana (Central Flyway Portion)

Zone 1: The Counties of Blaine, Carter, Daniels, Dawson, Fallon, Fergus, Garfield, Golden Valley, Judith Basin, McCone, Musselshell, Petroleum, Phillips, Powder River, Richland, Roosevelt, Sheridan, Stillwater, Sweet Grass, Valley, Wheatland, and Wibaux.

Zone 2: The Counties of Big Horn, Carbon, Custer, Prairie, Rosebud, Treasure, and Yellowstone.

Nebraska

High Plains: That portion of Nebraska lying west of a line beginning at the South Dakota-Nebraska border on U.S. Hwy 183; south on U.S. Hwy 183 to U.S. Hwy 20; west on U.S. Hwy 20 to NE Hwy 7; south on NE Hwy 7 to NE Hwy 91; southwest on NE Hwy 91 to NE Hwy 2; southeast on NE Hwy 2 to NE Hwy 92; west on NE Hwy 92 to NE Hwy 40; south on NE Hwy 40 to NE Hwy 47; south on NE Hwy 47 to NE Hwy 23; east on NE Hwy 23 to U.S. Hwy 283; and south on U.S. Hwy 283 to the Kansas-Nebraska border.

Zone 1: Area bounded by designated Federal and State highways and political boundaries beginning at the South Dakota-Nebraska border at U.S. Hwy 183; south along Hwy 183 to the Niobara River; east along the Niobara River to NE Hwy 137; south to U.S. Hwy 20; east to U.S. Hwy 281; north to the Niobrara River; east along the Niobrara River to the Boyd County Line; north along the Boyd County line to NE Hwy 12; east to NE 26E Spur; north along the NE 26E Spur to the Ponca State Park boat ramp; north and west along the Missouri River to the Nebraska-South Dakota border; west along the Nebraska-South Dakota border to U.S. Hwy 183. Both banks of the Niobrara River in Keya Paha and Boyd counties east of U.S. Hwy 183 shall be included in Zone 1.

Zone 2: Those areas of the State that are not contained in Zones 1, 3, or 4.

Zone 3: Area bounded by designated Federal and State highways, County Roads, and political boundaries beginning at the Wyoming-Nebraska border at its northernmost intersection with the Interstate Canal; southeast along the Interstate Canal to the northern border of Scotts Bluff County; east along northern borders of Scotts Bluff and Morrill Counties to Morrill County Road 125; south to Morrill County Rd 94; east to County Rd 135; south to County Rd 88; east to County Rd 147; south to County Rd 88; southeast to County Rd 86; east to County Rd 151; south to County Rd 80; east to County Rd 161; south to County Rd 76; east to County Rd 165; south to County Rd 167; south to U.S. Hwy 26; east to County Rd 171; north to County Rd 68; east to County Rd 183; south to County Rd 64; east to County Rd 189; north to County Rd 70; east to County Rd 201; south to County Rd 60A; east to County Rd 203; south to County Rd 52; east to Keith County Line; north along the Keith County line to the northern border of Keith County; east along the northern boundaries of Keith and Lincoln Counties to NE Hwy 97; south to U.S. Hwy 83; south to E Hall School Rd; east to North Airport Road; south to U.S. Hwy 30; east to NE Hwy 47; south to NE Hwy 23; east on NE Hwy 23 to U.S. Hwy 283; south on U.S. Hwy 283 to the Kansas-Nebraska border; west along Kansas-Nebraska border to the Nebraska-Colorado border; north and west to the Wyoming-Nebraska border; north along the Wyoming-Nebraska border to its northernmost-intersection with the Interstate Canal.

Zone 4: Area encompassed by designated Federal and State highways and County Roads beginning at the intersection of U.S. Hwy 283 at the Kansas-Nebraska border; north to NE Hwy 23; west to NE Hwy 47; north to Dawson County Rd 769; east to County Rd 423; south to County Rd 766; east to County Rd 428; south to County Rd 763; east to NE Hwy 21; south to County Rd 761; east on County Rd 761 to County Road 437; south to the Dawson County Canal; southeast along Dawson County Canal; east to County Rd 444; south to U.S. Hwy 30; east to U.S. Hwy 183; north to Buffalo County Rd 100; east to 46th Ave.; north to NE Hwy 40; east to NE Hwy 10; north to County Rd 220 and Hall County Husker Highway; east to Hall County S 70th Rd; north to NE Hwy 2; east to U.S. Hwy 281; north to Chapman Rd; east to 7th Rd; south to U.S. Hwy 30; north and east to NE Hwy 14; south to County Rd 22; west to County Rd M; south to County Rd 21; west to County Rd K; south to U.S. Hwy 34; west to NE Hwy 2; south to U.S. Hwy I–80; west to Gunbarrel Rd (Hall/Hamilton county line); south to Giltner Rd; west to U.S. Hwy 281; south to W. 82nd St; west to Holstein Ave.; south to U.S. Hwy 34; west to NE Hwy 10; north to Kearney County Rd R and Phelps County Rd 742; west to Gosper County Rd 433; south to N. Railway Street; west to Commercial Ave.; south to NE Hwy 23; west to Gosper County Rd 427; south to Gosper County Rd 737; west to Gosper County Rd 426; south to Gosper County Rd 735; east to Gosper County Rd 427; south to Furnas County Rd 276; west to Furnas County Rd 425.5/425; south to U.S. Hwy 34; east to NE Hwy 4; east to NE Hwy 10; south to U.S. Hwy

136; east to NE Hwy 14; south to NE Hwy 8; east to U.S. Hwy 81; north to NE Hwy 4; east to NE Hwy 15; north to U.S. Hwy 6; east to NE Hwy 33; east to SW 142 Street; south to W. Hallam Rd; east to SW 100 Rd; south to W. Chestnut Rd; west to NE Hwy 103; south to NE Hwy 4; west to NE Hwy 15; south to U.S. Hwy 136; east to Jefferson County Rd 578 Ave.; south to PWF Rd; east to NE Hwy 103; south to NE Hwy 8; east to U.S. Hwy 75; north to U.S. Hwy 136; east to the intersection of U.S. Hwy 136 and the Steamboat Trace (Trace); north along the Trace to the intersection with Federal Levee R–562; north along Federal Levee R–562 to the intersection with Nemaha County Rd 643A; south to the Trace; north along the Trace/Burlington Northern Railroad right-of-way to NE Hwy 2; west to U.S. Hwy 75; north to NE Hwy 2; west to NE Hwy 50; north to Otoe County Rd D; east to N. 32nd Rd; north to Otoe County Rd B; west to NE Hwy 50; north to U.S. Hwy 34; west to NE Hwy 63; north to NE Hwy 66; north and west to U.S. Hwy 77; north to NE Hwy 109; west along NE Hwy 109 and Saunders County Rd X to Saunders County 19; south to NE Hwy 92; west to NE Hwy Spur 12F; south to Butler County Rd 30; east to County Rd X; south to County Rd 27; west to County Rd W; south to County Rd 26; east to County Rd X; south to County Rd 21 (Seward County Line); west to NE Hwy 15; north to County Rd 34; west to County Rd H; south to NE Hwy 92; west to U.S. Hwy 81; south to NE Hwy 66; west to Dark Island Trail, north to Merrick County Rd M; east to Merrick County Rd 18; north to NE Hwy 92; west to NE Hwy 14; north to NE Hwy 52; west and north to NE Hwy 91; west to U.S. Hwy 281; south to NE Hwy 58; west to NE Hwy 11; west and south to NE Hwy 2; west to NE Hwy 68; north to NE Hwy L82A; west to NE Hwy 10; north to NE Hwy 92; west to U.S. Hwy 183; north to Round Valley Rd; west to Sargent River Rd; west to Sargent Rd; west to NE Hwy S21A; west to NE Hwy 2; north to NE Hwy 91 to North Loup Spur Rd; north to North Loup River Rd; north and east along to Pleasant Valley/Worth Rd; east to Loup County Line; north along the Loup County Line to Loup-Brown County line; east along northern boundaries of Loup and Garfield Counties to NE Hwy 11; south to Cedar River Road; east and south to NE Hwy 70; east to U.S. Hwy 281; north to NE Hwy 70; east to NE Hwy 14; south to NE Hwy 39; southeast to NE Hwy 22; east to U.S. Hwy 81; southeast to U.S. Hwy 30; east to the Iowa-Nebraska border; south to the Missouri-Nebraska border; south to Kansas-Nebraska border; west along Kansas-Nebraska border to U.S. Hwy 283.

New Mexico (Central Flyway Portion)

North Zone: That portion of the State north of I–40 and U.S. 54.

South Zone: The remainder of New Mexico.

North Dakota

High Plains: That portion of the State south and west of a line beginning at the junction of U.S. Hwy 83 and the South Dakota State line, then north along U.S. Hwy 83 and I–94 to ND Hwy 41, then north on ND Hwy 41 to ND Hwy 53, then west on ND Hwy 53 to U.S. Hwy 83, then north on U.S. Hwy 83 to U.S. Hwy 2, then west on U.S. Hwy 2 to the Williams County line, then north and west along the Williams and Divide County lines to the Canadian border.

Low Plains: The remainder of North Dakota.

Oklahoma

High Plains: The Counties of Beaver, Cimarron, and Texas.

Low Plains Zone 1: That portion of the State east of the High Plains Zone and north of a line extending east from the Texas State line along OK 33 to OK 47, east along OK 47 to U.S. 183, south along U.S. 183 to I–40, east along I–40 to U.S. 177, north along U.S. 177 to OK 33, east along OK 33 to OK 18, north along OK 18 to OK 51, west along OK 51 to I–35, north along I–35 to U.S. 412, west along U.S. 412 to OK 132, then north along OK 132 to the Kansas State line.

Low Plains Zone 2: The remainder of Oklahoma.

South Dakota

High Plains: That portion of the State west of a line beginning at the North Dakota State line and extending south along U.S. 83 to U.S. 14, east on U.S. 14 to Blunt, south on the Blunt-Canning Road to SD 34, east and south on SD 34 to SD 50 at Lee's Corner, south on SD 50 to I–90, east on I–90 to SD 50, south on SD 50 to SD 44, west on SD 44 across the Platte-Winner bridge to SD 47, south on SD 47 to U.S. 18, east on U.S. 18 to SD 47, south on SD 47 to the Nebraska State line.

Low Plains North Zone: That portion of northeastern South Dakota east of the High Plains Unit and north of a line extending east along U.S. 212 to the Minnesota State line.

Low Plains South Zone: That portion of Gregory County east of SD 47 and south of SD 44; Charles Mix County south of SD 44 to the Douglas County line; south on SD 50 to Geddes; east on the Geddes Highway to U.S. 281; south on U.S. 281 and U.S. 18 to SD 50; south and east on SD 50 to the Bon Homme County line; the Counties of Bon Homme, Yankton, and Clay south of SD 50; and Union County south and west of SD 50 and I–29.

Low Plains Middle Zone: The remainder of South Dakota.

Texas

High Plains: That portion of the State west of a line extending south from the Oklahoma State line along U.S. 183 to Vernon, south along U.S. 283 to Albany, south along TX 6 to TX 351 to Abilene, south along U.S. 277 to Del Rio, then south along the Del Rio International Toll Bridge access road to the Mexico border.

Low Plains North Zone: That portion of northeastern Texas east of the High Plains Zone and north of a line beginning at the International Toll Bridge south of Del Rio, then extending east on U.S. 90 to San Antonio, then continuing east on I–10 to the Louisiana State line at Orange, Texas.

Low Plains South Zone: The remainder of Texas.

Wyoming (Central Flyway portion)

Zone C1: Big Horn, Converse, Goshen, Hot Springs, Natrona, Park, Platte, and Washakie Counties; and Fremont County excluding the portions west or south of the Continental Divide.

Zone C2: Campbell, Crook, Johnson, Niobrara, Sheridan, and Weston Counties.

Zone C3: Albany and Laramie Counties; and that portion of Carbon County east of the Continental Divide.

Pacific Flyway

Arizona

North Zone: Game Management Units 1–5, those portions of Game Management Units 6 and 8 within Coconino County, and Game Management Units 7, 9, and 12A.

South Zone: Those portions of Game Management Units 6 and 8 in Yavapai County, and Game Management Units 10 and 12B–45.

California

Northeastern Zone: That portion of California lying east and north of a line beginning at the intersection of Interstate 5 with the California-Oregon line; south along Interstate 5 to its junction with Walters Lane south of the town of Yreka; west along Walters Lane to its junction with Easy Street; south along Easy Street to the junction with Old Highway 99; south along Old Highway 99 to the point of intersection with Interstate 5 north of the town of Weed; south along Interstate 5 to its

junction with Highway 89; east and south along Highway 89 to Main Street Greenville; north and east to its junction with North Valley Road; south to its junction of Diamond Mountain Road; north and east to its junction with North Arm Road; south and west to the junction of North Valley Road; south to the junction with Arlington Road (A22); west to the junction of Highway 89; south and west to the junction of Highway 70; east on Highway 70 to Highway 395; south and east on Highway 395 to the point of intersection with the California-Nevada State line; north along the California-Nevada State line to the junction of the California-Nevada-Oregon State lines; west along the California-Oregon State line to the point of origin.

Colorado River Zone: Those portions of San Bernardino, Riverside, and Imperial Counties east of a line from the intersection of Highway 95 with the California-Nevada State line; south on Highway 95 through the junction with Highway 40; south on Highway 95 to Vidal Junction; south through the town of Rice to the San Bernardino-Riverside County line on a road known as ''Aqueduct Road'' also known as Highway 62 in San Bernardino County; southwest on Highway 62 to Desert Center Rice Road; south on Desert Center Rice Road/Highway 177 to the town of Desert Center; east 31 miles on Interstate 10 to its intersection with Wiley Well Road; south on Wiley Well Road to Wiley Well; southeast on Milpitas Wash Road to the Blythe, Brawley, Davis Lake intersections; south on Blythe Ogilby Road also known as County Highway 34 to its intersection with Ogilby Road; south on Ogilby Road to its intersection with Interstate 8; east 7 miles on Interstate 8 to its intersection with the Andrade-Algodones Road/Highway 186; south on Highway 186 to its intersection with the U.S.-Mexico border at Los Algodones, Mexico.

Southern Zone: That portion of southern California (but excluding the Colorado River zone) south and east of a line beginning at the mouth of the Santa Maria River at the Pacific Ocean; east along the Santa Maria River to where it crosses Highway 101–166 near the City of Santa Maria; north on Highway 101–166; east on Highway 166 to the junction with Highway 99; south on Highway 99 to the junction of Interstate 5; south on Interstate 5 to the crest of the Tehachapi Mountains at Tejon Pass; east and north along the crest of the Tehachapi Mountains to where it intersects Highway 178 at Walker Pass; east on Highway 178 to the junction of Highway 395 at the town of Inyokern; south on Highway 395 to the junction of Highway 58; east on Highway 58 to the junction of Interstate 15; east on Interstate 15 to the junction with Highway 127; north on Highway 127 to the point of intersection with the California-Nevada State line.

Southern San Joaquin Valley Zone: All of Kings and Tulare Counties and that portion of Kern County north of the Southern Zone.

Balance of State Zone: The remainder of California not included in the Northeastern, Colorado River, Southern, and the Southern San Joaquin Valley Zones.

Colorado (Pacific Flyway Portion)

Eastern Zone: Routt, Grand, Summit, Eagle, and Pitkin Counties, those portions of Saguache, San Juan, Hinsdale, and Mineral Counties west of the Continental Divide, those portions of Gunnison County except the North Fork of the Gunnison River Valley (Game Management Units 521, 53, and 63), and that portion of Moffat County east of the northern intersection of Moffat County Road 29 with the Moffat-Routt County line, south along Moffat County Road 29 to the intersection of Moffat County Road 29 with the Moffat-Routt County line (Elkhead Reservoir State Park).

Western Zone: All areas west of the Continental Divide not included in the Eastern Zone.

Idaho

Zone 1: All lands and waters within the Fort Hall Indian Reservation, including private in-holdings; Bannock County; Bingham County except that portion within the Blackfoot Reservoir drainage; Caribou County within the Fort Hall Indian Reservation; and Power County east of State Highway 37 and State Highway 39.

Zone 2: Bear Lake, Bonneville, Butte, Clark, Fremont, Jefferson, Madison, and Teton Counties; Bingham County within the Blackfoot Reservoir drainage; and Caribou County except within the Fort Hall Indian Reservation.

Zone 3: Ada, Adams, Benewah, Blaine, Boise, Bonner, Boundary, Camas, Canyon, Cassia, Clearwater, Custer, Elmore, Franklin, Gem, Gooding, Idaho, Jerome, Kootenai, Latah, Lemhi, Lewis, Lincoln, Minidoka, Nez Perce, Oneida, Owyhee, Payette, Shoshone, Twin Falls, and Washington Counties; and Power County west of State Highway 37 and State Highway 39.

Zone 4: Valley County.

Nevada

Northeast Zone: Elko, Eureka, Lander, and White Pine Counties.

Northwest Zone: Carson City, Churchill, Douglas, Humboldt, Lyon, Mineral, Pershing, Storey, and Washoe Counties.

South Zone: Clark, Esmeralda, Lincoln, and Nye Counties.

Moapa Valley Special Management Area: That portion of Clark County including the Moapa Valley to the confluence of the Muddy and Virgin Rivers.

Oregon

Zone 1: Benton, Clackamas, Clatsop, Columbia, Coos, Curry, Douglas, Gilliam, Hood River, Jackson, Josephine, Lane, Lincoln, Linn, Marion, Morrow, Multnomah, Polk, Sherman, Tillamook, Umatilla, Wasco, Washington, and Yamhill Counties.

Zone 2: The remainder of Oregon not included in Zone 1.

Utah

Zone 1: Box Elder, Cache, Daggett, Davis, Duchesne, Morgan, Rich, Salt Lake, Summit, Uintah, Utah, Wasatch, and Weber Counties, and that part of Toole County north of I–80.

Zone 2: The remainder of Utah not included in Zone 1.

Washington

East Zone: All areas east of the Pacific Crest Trail and east of the Big White Salmon River in Klickitat County.

West Zone: The remainder of Washington not included in the East Zone.

Wyoming (Pacific Flyway Portion)

Snake River Zone: Beginning at the south boundary of Yellowstone National Park and the Continental Divide; south along the Continental Divide to Union Pass and the Union Pass Road (U.S.F.S. Road 600); west and south along the Union Pass Road to U.S.F.S. Road 605; south along U.S.F.S. Road 605 to the Bridger-Teton National Forest boundary; along the national forest boundary to the Idaho State line; north along the Idaho State line to the south boundary of Yellowstone National Park; east along the Yellowstone National Park boundary to the Continental Divide.

Balance of State Zone: The remainder of the Pacific Flyway portion of Wyoming not included in the Snake River Zone.

Geese

Atlantic Flyway

Connecticut

Early Canada and Cackling Goose Seasons

South Zone: Same as for ducks.

North Zone: Same as for ducks.

Regular Seasons

AP Unit: Litchfield County and the portion of Hartford County west of a line beginning at the Massachusetts border in Suffield and extending south along Route 159 to its intersection with I–91 in Hartford, and then extending south along I–91 to its intersection with the Hartford-Middlesex County line.

NAP H–Unit: That part of the State east of a line beginning at the Massachusetts border in Suffield and extending south along Route 159 to its intersection with I–91 in Hartford and then extending south along I–91 to State Street in New Haven; then south on State Street to Route 34, west on Route 34 to Route 8, south along Route 8 to Route 110, south along Route 110 to Route 15, north along Route 15 to the Milford Parkway, south along the Milford Parkway to I–95, north along I–95 to the intersection with the east shore of the Quinnipiac River, south to the mouth of the Quinnipiac River and then south along the eastern shore of New Haven Harbor to the Long Island Sound.

Atlantic Flyway Resident Population (AFRP) Unit: Remainder of the State not included in AP and NAP Units.

South Zone: Same as for ducks.

Maine

North NAP–H Zone: Same as North Zone for ducks.

Coastal NAP–L Zone: Same as Coastal Zone for ducks.

South NAP–H Zone: Same as South Zone for ducks.

Maryland

Early Canada and Cackling Goose Seasons

Eastern Unit: Calvert, Caroline, Cecil, Dorchester, Harford, Kent, Queen Anne's, St. Mary's, Somerset, Talbot, Wicomico, and Worcester Counties; and that part of Anne Arundel County east of Interstate 895, Interstate 97, and Route 3; that part of Prince George's County east of Route 3 and Route 301; and that part of Charles County east of Route 301 to the Virginia State line.

Western Unit: Allegany, Baltimore, Carroll, Frederick, Garrett, Howard, Montgomery, and Washington Counties and that part of Anne Arundel County west of Interstate 895, Interstate 97, and Route 3; that part of Prince George's County west of Route 3 and Route 301; and that part of Charles County west of Route 301 to the Virginia State line.

Regular Seasons

Resident Population (RP) Zone: Allegany, Frederick, Garrett, Montgomery, and Washington Counties; that portion of Prince George's County west of Route 3 and Route 301; that portion of Charles County west of Route 301 to the Virginia State line; and that portion of Carroll County west of Route 31 to the intersection of Route 97, and west of Route 97 to the Pennsylvania State line.

AP Zone: Remainder of the State.

Massachusetts

NAP Zone: Central and Coastal Zones (see duck zones).

AP Zone: The Western Zone (see duck zones).

Special Late Season Area: The Central Zone and that portion of the Coastal Zone (see duck zones) that lies north of the Cape Cod Canal, north to the New Hampshire State line.

New Hampshire

Same zones as for ducks.

New Jersey

AP Zone: North and South Zones (see duck zones).

NAP Zone: The Coastal Zone (see duck zones).

Special Late Season Area: In northern New Jersey, that portion of the State within a continuous line that runs east along the New York State boundary line to the Hudson River; then south along the New York State boundary to its intersection with Route 440 at Perth Amboy; then west on Route 440 to its intersection with Route 287; then west along Route 287 to its intersection with Route 206 in Bedminster (Exit 18); then north along Route 206 to its intersection with Route 94; then west along Route 94 to the toll bridge in Columbia; then north along the Pennsylvania State boundary in the Delaware River to the beginning point. In southern New Jersey, that portion of the State within a continuous line that runs west from the Atlantic Ocean at Ship Bottom along Route 72 to Route 70; then west along Route 70 to Route 206; then south along Route 206 to Route 536; then west along Route 536 to Route 322; then west along Route 322 to Route 55; then south along Route 55 to Route 553 (Buck Road); then south along Route 553 to Route 40; then east along Route 40 to route 55; then south along Route 55 to Route 552 (Sherman Avenue); then west along Route 552 to Carmel Road; then south along Carmel Road to Route 49; then east along Route 49 to Route 555; then south along Route 555 to Route 553; then east along Route 553 to Route 649; then north along Route 649 to Route 670; then east along Route 670 to Route 47; then north along Route 47 to Route 548; then east along Route 548 to Route 49; then east along Route 49 to Route 50; then south along Route 50 to Route 9; then south along Route 9 to Route 625 (Sea Isle City Boulevard); then east along Route 625 to the Atlantic Ocean; then north to the beginning point.

New York

Lake Champlain Goose Area: The same as the Lake Champlain Waterfowl Hunting Zone, which is that area of New York State lying east and north of a continuous line extending along Route 11 from the New York-Canada international boundary south to Route 9B, south along Route 9B to Route 9, south along Route 9 to Route 22 south of Keeseville, south along Route 22 to the west shore of South Bay along and around the shoreline of South Bay to Route 22 on the east shore of South Bay, southeast along Route 22 to Route 4, northeast along Route 4 to the New York-Vermont boundary.

Northeast Goose Area: The same as the Northeastern Waterfowl Hunting Zone, which is that area of New York State lying north of a continuous line extending from Lake Ontario east along the north shore of the Salmon River to Interstate 81, south along Interstate 81 to Route 31, east along Route 31 to Route 13, north along Route 13 to Route 49, east along Route 49 to Route 365, east along Route 365 to Route 28, east along Route 28 to Route 29, east along Route 29 to Route 22 at Greenwich Junction, north along Route 22 to Washington County Route 153, east along CR 153 to the New York-Vermont boundary, exclusive of the Lake Champlain Zone.

East Central Goose Area: That area of New York State lying inside of a continuous line extending from Interstate Route 81 in Cicero, east along Route 31 to Route 13, north along Route 13 to Route 49, east along Route 49 to Route 365, east along Route 365 to Route 28, east along Route 28 to Route 29, east along Route 29 to Route 147 at Kimball Corners, south along Route 147 to Schenectady County Route 40 (West Glenville Road), west along Route 40 to Touareuna Road, south along Touareuna Road to Schenectady County Route 59, south along Route 59 to State Route 5, east along Route 5 to the Lock 9 bridge, southwest along the Lock 9 bridge to Route 5S, southeast along Route 5S to Schenectady County Route 58, southwest along Route 58 to the NYS Thruway, south along the Thruway to Route 7, southwest along Route 7 to Schenectady County Route 103, south along Route 103 to Route 406, east along Route 406 to Schenectady County Route 99 (Windy Hill Road), south along Route 99 to Dunnsville Road, south along Dunnsville Road to Route 397, southwest along Route 397 to Route 146 at Altamont, west along Route 146 to

Albany County Route 252, northwest along Route 252 to Schenectady County Route 131, north along Route 131 to Route 7, west along Route 7 to Route 10 at Richmondville, south on Route 10 to Route 23 at Stamford, west along Route 23 to Route 7 in Oneonta, southwest along Route 7 to Route 79 to Interstate Route 88 near Harpursville, west along Route 88 to Interstate Route 81, north along Route 81 to the point of beginning.

West Central Goose Area: That area of New York State lying within a continuous line beginning at the point where the northerly extension of Route 269 (County Line Road on the Niagara-Orleans County boundary) meets the international boundary with Canada, south to the shore of Lake Ontario at the eastern boundary of Golden Hill State Park, south along the extension of Route 269 and Route 269 to Route 104 at Jeddo, west along Route 104 to Niagara County Route 271, south along Route 271 to Route 31E at Middleport, south along Route 31E to Route 31, west along Route 31 to Griswold Street, south along Griswold Street to Ditch Road, south along Ditch Road to Foot Road, south along Foot Road to the north bank of Tonawanda Creek, west along the north bank of Tonawanda Creek to Route 93, south along Route 93 to Route 5, east along Route 5 to Crittenden-Murrays Corners Road, south on Crittenden-Murrays Corners Road to the NYS Thruway, east along the Thruway 90 to Route 98 (at Thruway Exit 48) in Batavia, south along Route 98 to Route 20, east along Route 20 to Route 19 in Pavilion Center, south along Route 19 to Route 63, southeast along Route 63 to Route 246, south along Route 246 to Route 39 in Perry, northeast along Route 39 to Route 20A, northeast along Route 20A to Route 20, east along Route 20 to Route 364 (near Canandaigua), south and east along Route 364 to Yates County Route 18 (Italy Valley Road), southwest along Route 18 to Yates County Route 34, east along Route 34 to Yates County Route 32, south along Route 32 to Steuben County Route 122, south along Route 122 to Route 53, south along Route 53 to Steuben County Route 74, east along Route 74 to Route 54A (near Pulteney), south along Route 54A to Steuben County Route 87, east along Route 87 to Steuben County Route 96, east along Route 96 to Steuben County Route 114, east along Route 114 to Schuyler County Route 23, east and southeast along Route 23 to Schuyler County Route 28, southeast along Route 28 to Route 409 at Watkins Glen, south along Route 409 to Route 14, south along Route 14 to Route 224 at Montour Falls, east along Route 224 to Route 228 in Odessa, north along Route 228 to Route 79 in Mecklenburg, east along Route 79 to Route 366 in Ithaca, northeast along Route 366 to Route 13, northeast along Route 13 to Interstate Route 81 in Cortland, north along Route 81 to the north shore of the Salmon River to shore of Lake Ontario, extending generally northwest in a straight line to the nearest point of the international boundary with Canada, south and west along the international boundary to the point of beginning.

Hudson Valley Goose Area: That area of New York State lying within a continuous line extending from Route 4 at the New York-Vermont boundary, west and south along Route 4 to Route 149 at Fort Ann, west on Route 149 to Route 9, south along Route 9 to Interstate Route 87 (at Exit 20 in Glens Falls), south along Route 87 to Route 29, west along Route 29 to Route 147 at Kimball Corners, south along Route 147 to Schenectady County Route 40 (West Glenville Road), west along Route 40 to Touareuna Road, south along Touareuna Road to Schenectady County Route 59, south along Route 59 to State Route 5, east along Route 5 to the Lock 9 bridge, southwest along the Lock 9 bridge to Route 5S, southeast along Route 5S to Schenectady County Route 58, southwest along Route 58 to the NYS Thruway, south along the Thruway to Route 7, southwest along Route 7 to Schenectady County Route 103, south along Route 103 to Route 406, east along Route 406 to Schenectady County Route 99 (Windy Hill Road), south along Route 99 to Dunnsville Road, south along Dunnsville Road to Route 397, southwest along Route 397 to Route 146 at Altamont, southeast along Route 146 to Main Street in Altamont, west along Main Street to Route 156, southeast along Route 156 to Albany County Route 307, southeast along Route 307 to Route 85A, southwest along Route 85A to Route 85, south along Route 85 to Route 443, southeast along Route 443 to Albany County Route 301 at Clarksville, southeast along Route 301 to Route 32, south along Route 32 to Route 23 at Cairo, west along Route 23 to Joseph Chadderdon Road, southeast along Joseph Chadderdon Road to Hearts Content Road (Greene County Route 31), southeast along Route 31 to Route 32, south along Route 32 to Greene County Route 23A, east along Route 23A to Interstate Route 87 (the NYS Thruway), south along Route 87 to Route 28 (Exit 19) near Kingston, northwest on Route 28 to Route 209, southwest on Route 209 to the New York-Pennsylvania boundary, southeast along the New York-Pennsylvania boundary to the New York-New Jersey boundary, southeast along the New York-New Jersey boundary to Route 210 near Greenwood Lake, northeast along Route 210 to Orange County Route 5, northeast along Orange County Route 5 to Route 105 in the Village of Monroe, east and north along Route 105 to Route 32, northeast along Route 32 to Orange County Route 107 (Quaker Avenue), east along Route 107 to Route 9W, north along Route 9W to the south bank of Moodna Creek, southeast along the south bank of Moodna Creek to the New Windsor-Cornwall town boundary, northeast along the New Windsor-Cornwall town boundary to the Orange-Dutchess County boundary (middle of the Hudson River), north along the county boundary to Interstate Route 84, east along Route 84 to the Dutchess-Putnam County boundary, east along the county boundary to the New York-Connecticut boundary, north along the New York-Connecticut boundary to the New York-Massachusetts boundary, north along the New York-Massachusetts boundary to the New York-Vermont boundary, north to the point of beginning.

Eastern Long Island Goose Area (NAP High Harvest Area): That area of Suffolk County lying east of a continuous line extending due south from the New York-Connecticut boundary to the northernmost end of Roanoke Avenue in the Town of Riverhead; then south on Roanoke Avenue (which becomes County Route 73) to State Route 25; then west on Route 25 to Peconic Avenue; then south on Peconic Avenue to County Route (CR) 104 (Riverleigh Avenue); then south on CR 104 to CR 31 (Old Riverhead Road); then south on CR 31 to Oak Street; then south on Oak Street to Potunk Lane; then west on Stevens Lane; then south on Jessup Avenue (in Westhampton Beach) to Dune Road (CR 89); then due south to international waters.

Western Long Island Goose Area (RP Area): That area of Westchester County and its tidal waters southeast of Interstate Route 95 and that area of Nassau and Suffolk Counties lying west of a continuous line extending due south from the New York-Connecticut boundary to the northernmost end of Sound Road (just east of Wading River Marsh); then south on Sound Road to North Country Road; then west on North Country Road to Randall Road; then south on Randall Road to Route 25A, then west on Route 25A to the Sunken Meadow State Parkway; then south on the Sunken Meadow Parkway to the Sagtikos State Parkway; then south on the Sagtikos Parkway to the Robert Moses State Parkway; then south on the

Robert Moses Parkway to its southernmost end; then due south to international waters.

Central Long Island Goose Area (NAP Low Harvest Area): That area of Suffolk County lying between the Western and Eastern Long Island Goose Areas, as defined above.

South Goose Area: The remainder of New York State, excluding New York City.

North Carolina

Northeast Zone: Includes the following counties or portions of counties: Bertie (that portion north and east of a line formed by NC 45 at the Washington County line to U.S. 17 in Midway, U.S. 17 in Midway to U.S. 13 in Windsor, U.S. 13 in Windsor to the Hertford County line), Camden, Chowan, Currituck, Dare, Hyde, Pasquotank, Perquimans, Tyrrell, and Washington.

RP Zone: Remainder of the State.

Pennsylvania

Resident Canada and Cackling Goose Zone: All of Pennsylvania except for the SJBP Zone and the area east of route SR 97 from the Maryland State Line to the intersection of SR 194, east of SR 194 to the intersection of U.S. Route 30, south of U.S. Route 30 to SR 441, east of SR 441 to SR 743, east of SR 743 to intersection of I–81, east of I–81 to intersection of I–80, and south of I–80 to the New Jersey State line.

SJBP Zone: The area north of I–80 and west of I–79 including in the city of Erie west of Bay Front Parkway to and including the Lake Erie Duck zone (Lake Erie, Presque Isle, and the area within 150 yards of the Lake Erie shoreline).

AP Zone: The area east of route SR 97 from Maryland State Line to the intersection of SR 194, east of SR 194 to intersection of U.S. Route 30, south of U.S. Route 30 to SR 441, east of SR 441 to SR 743, east of SR 743 to intersection of I–81, east of I–81 to intersection of I–80, south of I–80 to the New Jersey State line.

Rhode Island

Special Area for Canada and Cackling Geese: Kent and Providence Counties and portions of the towns of Exeter and North Kingston within Washington County (see State regulations for detailed descriptions).

South Carolina

Canada and Cackling Goose Area: Statewide except for the following area:

East of U.S. 301: That portion of Clarendon County bounded to the North by S–14–25, to the East by Hwy 260, and to the South by the markers delineating the channel of the Santee River.

West of U.S. 301: That portion of Clarendon County bounded on the North by S–14–26 extending southward to that portion of Orangeburg County bordered by Hwy 6.

Vermont

Same zones as for ducks.

Virginia

AP Zone: The area east and south of the following line—the Stafford County line from the Potomac River west to Interstate 95 at Fredericksburg, then south along Interstate 95 to Petersburg, then Route 460 (SE) to City of Suffolk, then south along Route 32 to the North Carolina line.

SJBP Zone: The area to the west of the AP Zone boundary and east of the following line: The ''Blue Ridge'' (mountain spine) at the West Virginia-Virginia Border (Loudoun County-Clarke County line) south to Interstate 64 (the Blue Ridge line follows county borders along the western edge of Loudoun-Fauquier-Rappahannock-Madison-Greene-Albemarle and into Nelson Counties), then east along Interstate Route 64 to Route 15, then south along Route 15 to the North Carolina line.

RP Zone: The remainder of the State west of the SJBP Zone.

Mississippi Flyway

Arkansas

Northwest Zone: Baxter, Benton, Boone, Carroll, Conway, Crawford, Faulkner, Franklin, Johnson, Logan, Madison, Marion, Newton, Perry, Pope, Pulaski, Searcy, Sebastian, Scott, Van Buren, Washington, and Yell Counties.

Remainder of State: That portion of the State outside of the Northwest Zone.

Illinois

North Zone: That portion of the State north of a line extending west from the Indiana border along Interstate 80 to I–39, south along I–39 to Illinois Route 18, west along Illinois Route 18 to Illinois Route 29, south along Illinois Route 29 to Illinois Route 17, west along Illinois Route 17 to the Mississippi River, and due south across the Mississippi River to the Iowa border.

Central Zone: That portion of the State south of the North Goose Zone line to a line extending west from the Indiana border along I-70 to Illinois Route 4, south along Illinois Route 4 to Illinois Route 161, west along Illinois Route 161 to Illinois Route 158, south and west along Illinois Route 158 to Illinois Route 159, south along Illinois Route 159 to Illinois Route 3, south along Illinois Route 3 to St. Leo's Road, south along St. Leo's Road to Modoc Road, west along Modoc Road to Modoc Ferry Road, southwest along Modoc Ferry Road to Levee Road, southeast along Levee Road to County Route 12 (Modoc Ferry entrance Road), south along County Route 12 to the Modoc Ferry route and southwest on the Modoc Ferry route across the Mississippi River to the Missouri border.

South Zone: Same zone as for ducks.

South Central Zone: Same zone as for ducks.

Indiana

Same zones as for ducks.

Iowa

Same zones as for ducks.

Louisiana

North Zone: That portion of the State north of the line from the Texas border at State Hwy 190/12 east to State Hwy 49, then south on State Hwy 49 to Interstate 10, then east on Interstate 10 to Interstate 12, then east on Interstate 12 to Interstate 10, then east on Interstate 10 to the Mississippi State line.

South Zone: Remainder of the State.

Michigan

North Zone: Same as North duck zone.

Middle Zone: Same as Middle duck zone.

South Zone: Same as South duck zone.

Allegan County Game Management Unit (GMU): That area encompassed by a line beginning at the junction of 136th Avenue and Interstate Highway 196 in Lake Town Township and extending easterly along 136th Avenue to Michigan Highway 40, southerly along Michigan 40 through the city of Allegan to 108th Avenue in Trowbridge Township, westerly along 108th Avenue to 46th Street, northerly along 46th Street to 109th Avenue, westerly along 109th Avenue to I–196 in Casco Township, then northerly along I–196 to the point of beginning.

Muskegon Wastewater GMU: That portion of Muskegon County within the boundaries of the Muskegon County wastewater system, east of the Muskegon State Game Area, in sections 5, 6, 7, 8, 17, 18, 19, 20, 29, 30, and 32, T10N R14W, and sections 1, 2, 10, 11, 12, 13, 14, 24, and 25, T10N R15W, as posted.

Minnesota

Same zones as for ducks.

Missouri

Same zones as for ducks.

Ohio

Same zones as for ducks.

Tennessee

Reelfoot Zone: The lands and waters within the boundaries of Reelfoot Lake WMA only.

Remainder of State: The remainder of the State.

Wisconsin

North and South Zones: Same zones as for ducks.

Mississippi River Zone: That area encompassed by a line beginning at the intersection of the Burlington Northern & Santa Fe Railway and the Illinois State line in Grant County and extending northerly along the Burlington Northern & Santa Fe Railway to the city limit of Prescott in Pierce County, then west along the Prescott city limit to the Minnesota State line.

Central Flyway

Colorado (Central Flyway Portion)

Northern Front Range Area: All areas in Boulder, Larimer, and Weld Counties from the Continental Divide east along the Wyoming border to U.S. 85, south on U.S. 85 to the Adams County line, and all lands in Adams, Arapahoe, Broomfield, Clear Creek, Denver, Douglas, Gilpin, and Jefferson Counties.

North Park Area: Jackson County.

South Park Area: Chaffee, Custer, Fremont, Lake, Park, and Teller Counties.

San Luis Valley Area: All of Alamosa, Conejos, Costilla, and Rio Grande Counties, and those portions of Saguache, Mineral, Hinsdale, Archuleta, and San Juan Counties east of the Continental Divide.

Remainder: Remainder of the Central Flyway portion of Colorado.

Eastern Colorado Late Light Goose Area: That portion of the State east of Interstate Highway 25.

Montana (Central Flyway Portion)

Zone 1: Same as Zone 1 for ducks and coots.

Zone 2: Same as Zone 2 for ducks and coots.

Nebraska

Dark Geese

Niobrara Unit: That area contained within and bounded by the intersection of the Nebraska-South Dakota border and U.S Hwy 83, south to U.S. Hwy 20, east to NE Hwy 14, north along NE Hwy 14 to NE Hwy 59 and County Road 872, west along County Road 872 to the Knox County Line, north along the Knox County Line to the Nebraska-South Dakota border, west along the Nebraska-South Dakota border to U.S. Hwy 83. Where the Niobrara River forms the boundary, both banks of the river are included in the Niobrara Unit.

Platte River Unit: The area bounded starting at the northernmost intersection of the Interstate Canal at the Nebraska-Wyoming border, south along the Nebraska-Wyoming border to the Nebraska-Colorado border, east and south along the Nebraska-Colorado border to the Nebraska-Kansas border, east along the Nebraska-Kansas border to the Nebraska-Missouri border, north along the Nebraska-Missouri and Nebraska-Iowa borders to the Burt-Washington County line, west along the Burt-Washington County line to U.S. Hwy 75, south to Dodge County Road 4/Washington County Road 4, west to U.S. Hwy 77, south to U.S. Hwy 275, northwest to U.S. Hwy 91, west to NE Hwy 45, north to NE Hwy 32, west to NE Hwy 14, north to NE Hwy 70, west to U.S. Hwy 281, south to NE Hwy 70, west along NE Hwy 70/91 to NE Hwy 11, north to the Holt County Line, west along the northern border of Garfield, Loup, Blaine, and Thomas Counties to the Hooker County Line, south along the Thomas-Hooker County Lines to the McPherson County Line, east along the south border of Thomas County to the Custer County Line, south along the Custer-Logan County lines to NE Hwy 92, west to U.S. Hwy 83, north to NE Hwy 92, west to NE Hwy 61, north to NE Hwy 2, west along NE Hwy 2 to the corner formed by Garden, Grant and Sheridan Counties, west along the north borders of Garden, Morrill, and Scotts Bluff Counties to the intersection with the Interstate Canal, north and west along the Interstate Canal to the intersection with the Nebraska-Wyoming border.

North-Central Unit: Those portions of the State not in the Niobrara and Platte River zones.

Light Geese

Rainwater Basin Light Goose Area: The area bounded by the junction of NE Hwy 92 and NE Hwy 15, south along NE Hwy 15 to NE Hwy 4, west along NE Hwy 4 to U.S. Hwy 34, west along U.S. Hwy 34 to U.S. Hwy 283, north along U.S. Hwy 283 to U.S. Hwy 30, east along U.S. Hwy 30 to NE Hwy 92, east along NE Hwy 92 to the beginning.

Remainder of State: The remainder of Nebraska.

New Mexico (Central Flyway Portion)

Dark Geese

Middle Rio Grande Valley Unit: Sierra, Socorro, and Valencia Counties.

Remainder: The remainder of the Central Flyway portion of New Mexico.

North Dakota

Missouri River Canada and Cackling Goose Zone: The area within and bounded by a line starting where ND Hwy 6 crosses the South Dakota border; then north on ND Hwy 6 to I–94; then west on I–94 to ND Hwy 49; then north on ND Hwy 49 to ND Hwy 200; then west on ND Hwy 200; then north on ND Hwy 8 to the Mercer/McLean County line; then east following the county line until it turns south toward Garrison Dam; then east along a line (including Mallard Island) of Lake Sakakawea to U.S. Hwy 83; then south on U.S. Hwy 83 to ND Hwy 200; then east on ND Hwy 200 to ND Hwy 41; then south on ND Hwy 41 to U.S. Hwy 83; then south on U.S. Hwy 83 to I–94; then east on I–94 to U.S. Hwy 83; then south on U.S. Hwy 83 to the South Dakota border; then west along the South Dakota border to ND Hwy 6.

Western North Dakota Canada and Cackling Goose Zone: Same as the High Plains Unit for ducks, mergansers and coots, excluding the Missouri River Canada Goose Zone.

Rest of State: Remainder of North Dakota.

South Dakota

Early Canada and Cackling Goose Seasons

Special Early Canada and Cackling Goose Unit: The Counties of Campbell, Clark, Codington, Day, Deuel, Grant, Hamlin, Marshall, Roberts, Walworth; that portion of Perkins County west of State Highway 75 and south of State Highway 20; that portion of Dewey County north of Bureau of Indian Affairs Road 8, Bureau of Indian Affairs Road 9, and the section of U.S. Highway 212 east of the Bureau of Indian Affairs Road 8 junction; that portion of Potter County east of U.S. Highway 83; that portion of Sully County east of U.S. Highway 83; portions of Hyde, Buffalo, Brule, and Charles Mix Counties north and east of a line beginning at the Hughes-Hyde County line on State Highway 34, east to Lees Boulevard, southeast to State Highway 34, east 7 miles to 350th Avenue, south to Interstate 90 on 350th Avenue, south and east on State Highway 50 to Geddes, east on 285th Street to U.S. Highway 281, and north on U.S. Highway 281 to the Charles Mix-Douglas County boundary; that portion of Bon Homme County north of State Highway 50; those portions of Yankton and Clay Counties north of a line beginning at the junction of State Highway 50 and 306th Street/County Highway 585 in Bon Homme County, east to U.S. Highway 81, then north on U.S. Highway 81 to 303rd Street, then

east on 303rd Street to 444th Avenue, then south on 444th Avenue to 305th Street, then east on 305th Street/Bluff Road to State Highway 19, then south to State Highway 50 and east to the Clay/Union County Line; Aurora, Beadle, Brookings, Brown, Butte, Corson, Davison, Douglas, Edmunds, Faulk, Haakon, Hand, Hanson, Harding, Hutchinson, Jackson, Jerauld, Jones, Kingsbury, Lake, McCook, McPherson, Meade, Mellette, Miner, Moody, Oglala Lakota (formerly Shannon), Sanborn, Spink, Todd, Turner, and Ziebach Counties; and those portions of Minnehaha and Lincoln Counties outside of an area bounded by a line beginning at the junction of the South Dakota-Minnesota State line and Minnehaha County Highway 122 (254th Street) west to its junction with Minnehaha County Highway 149 (464th Avenue), south on Minnehaha County Highway 149 (464th Avenue) to Hartford, then south on Minnehaha County Highway 151 (463rd Avenue) to State Highway 42, east on State Highway 42 to State Highway 17, south on State Highway 17 to its junction with Lincoln County Highway 116 (Klondike Road), and east on Lincoln County Highway 116 (Klondike Road) to the South Dakota-Iowa State line, then north along the South Dakota-Iowa and South Dakota-Minnesota border to the junction of the South Dakota-Minnesota State line and Minnehaha County Highway 122 (254th Street).

Regular Seasons

Unit 1: Same as that for the Special Early Canada and Cackling Goose Unit.

Unit 2: All of South Dakota not included in Unit 1 and Unit 3.

Unit 3: Bennett County.

Texas

Northeast Goose Zone: That portion of Texas lying east and north of a line beginning at the Texas-Oklahoma border at U.S. 81, then continuing south to Bowie and then southeasterly along U.S. 81 and U.S. 287 to I–35W and I–35 to the juncture with I–10 in San Antonio, then east on I–10 to the Texas-Louisiana border.

Southeast Goose Zone: That portion of Texas lying east and south of a line beginning at the International Toll Bridge at Laredo, then continuing north following I–35 to the juncture with I–10 in San Antonio, then easterly along I–10 to the Texas-Louisiana border.

West Goose Zone: The remainder of the State.

Wyoming (Central Flyway Portion)

Dark Geese

Zone G1: Big Horn, Converse, Hot Springs, Natrona, Park, and Washakie Counties.

Zone G1A: Goshen and Platte Counties.

Zone G2: Campbell, Crook, Johnson, Niobrara, Sheridan, and Weston Counties.

Zone G3: Albany and Laramie Counties; and that portion of Carbon County east of the Continental Divide.

Zone G4: Fremont County excluding those portions south or west of the Continental Divide.

Pacific Flyway

Arizona

Same zones as for ducks.

California

Northeastern Zone: That portion of California lying east and north of a line beginning at the intersection of Interstate 5 with the California-Oregon line; south along Interstate 5 to its junction with Walters Lane south of the town of Yreka; west along Walters Lane to its junction with Easy Street; south along Easy Street to the junction with Old Highway 99; south along Old Highway 99 to the point of intersection with Interstate 5 north of the town of Weed; south along Interstate 5 to its junction with Highway 89; east and south along Highway 89 to main street Greenville; north and east to its junction with North Valley Road; south to its junction of Diamond Mountain Road; north and east to its junction with North Arm Road; south and west to the junction of North Valley Road; south to the junction with Arlington Road (A22); west to the junction of Highway 89; south and west to the junction of Highway 70; east on Highway 70 to Highway 395; south and east on Highway 395 to the point of intersection with the California-Nevada State line; north along the California-Nevada State line to the junction of the California-Nevada-Oregon State lines west along the California-Oregon State line to the point of origin.

Klamath Basin Special Management Area: Beginning at the intersection of Highway 161 and Highway 97; east on Highway 161 to Hill Road; south on Hill Road to N Dike Road West Side; east on N Dike Road West Side until the junction of the Lost River; north on N Dike Road West Side until the Volcanic Legacy Scenic Byway; east on Volcanic Legacy Scenic Byway until N Dike Road East Side; south on the N Dike Road East Side; continue east on N Dike Road East Side to Highway 111; south on Highway 111/Great Northern Road to Highway 120/Highway 124; west on Highway 120/Highway 124 to Hill Road; south on Hill Road until Lairds Camp Road; west on Lairds Camp Road until Willow Creek; west and south on Willow Creek to Red Rock Road; west on Red Rock Road until Meiss Lake Road/Old State Highway; north on Meiss Lake Road/Old State Highway to Highway 97; north on Highway 97 to the point of origin.

Colorado River Zone: Those portions of San Bernardino, Riverside, and Imperial Counties east of a line from the intersection of Highway 95 with the California-Nevada State line; south on Highway 95 through the junction with Highway 40; south on Highway 95 to Vidal Junction; south through the town of Rice to the San Bernardino-Riverside County line on a road known as ''Aqueduct Road'' also known as Highway 62 in San Bernardino County; southwest on Highway 62 to Desert Center Rice Road; south on Desert Center Rice Road/Highway 177 to the town of Desert Center; east 31 miles on Interstate 10 to its intersection with Wiley Well Road; south on Wiley Well Road to Wiley Well; southeast on Milpitas Wash Road to the Blythe, Brawley, Davis Lake intersections; south on Blythe Ogilby Road also known as County Highway 34 to its intersection with Ogilby Road; south on Ogilby Road to its intersection with Interstate 8; east 7 miles on Interstate 8 to its intersection with the Andrade-Algodones Road/Highway 186; south on Highway 186 to its intersection with the U.S.-Mexico border at Los Algodones, Mexico.

Southern Zone: That portion of southern California (but excluding the Colorado River zone) south and east of a line beginning at the mouth of the Santa Maria River at the Pacific Ocean; east along the Santa Maria River to where it crosses Highway 101–166 near the City of Santa Maria; north on Highway 101–166; east on Highway 166 to the junction with Highway 99; south on Highway 99 to the junction of Interstate 5; south on Interstate 5 to the crest of the Tehachapi Mountains at Tejon Pass; east and north along the crest of the Tehachapi Mountains to where it intersects Highway 178 at Walker Pass; east on Highway 178 to the junction of Highway 395 at the town of Inyokern; south on Highway 395 to the junction of Highway 58; east on Highway 58 to the junction of Interstate 15; east on Interstate 15 to the junction with Highway 127; north on Highway 127 to the point of intersection with the California-Nevada State line.

Imperial County Special Management Area: The area bounded by a line

beginning at Highway 86 and the Navy Test Base Road; south on Highway 86 to the town of Westmoreland; continue through the town of Westmoreland to Route S26; east on Route S26 to Highway 115; north on Highway 115 to Weist Road; north on Weist Road to Flowing Wells Road; northeast on Flowing Wells Road to the Coachella Canal; northwest on the Coachella Canal to Drop 18; a straight line from Drop 18 to Frink Road; south on Frink Road to Highway 111; north on Highway 111 to Niland Marina Road; southwest on Niland Marina Road to the old Imperial County boat ramp and the water line of the Salton Sea; from the water line of the Salton Sea, a straight line across the Salton Sea to the Salinity Control Research Facility and the Navy Test Base Road; southwest on the Navy Test Base Road to the point of beginning.

Balance of State Zone: The remainder of California not included in the Northeastern, Colorado River, and Southern Zones.

North Coast Special Management Area: Del Norte and Humboldt Counties.

Sacramento Valley Special Management Area: That area bounded by a line beginning at Willows south on I–5 to Hahn Road; easterly on Hahn Road and the Grimes-Arbuckle Road to Grimes; northerly on CA 45 to the junction with CA 162; northerly on CA 45/162 to Glenn; and westerly on CA 162 to the point of beginning in Willows.

Colorado (Pacific Flyway Portion)

Same zones as for ducks.

Idaho

Canada and Cackling Geese and Brant

Zone 1: All lands and waters within the Fort Hall Indian Reservation, including private in-holdings; Bannock County; Bingham County, except that portion within the Blackfoot Reservoir drainage; Caribou County within the Fort Hall Indian Reservation; and Power County east of State Highway 37 and State Highway 39.

Zone 2: Bonneville, Butte, Clark, Fremont, Jefferson, Madison, and Teton Counties.

Zone 3: Ada, Adams, Benewah, Blaine, Boise, Bonner, Boundary, Camas, Canyon, Cassia, Clearwater, Custer, Elmore, Franklin, Gem, Gooding, Idaho, Jerome, Kootenai, Latah, Lemhi, Lewis, Lincoln, Minidoka, Nez Perce, Oneida, Owyhee, Payette, Shoshone, Twin Falls, and Washington Counties; and Power County west of State Highway 37 and State Highway 39.

Zone 4: Bear Lake County; Bingham County within the Blackfoot Reservoir drainage; and Caribou County, except that portion within the Fort Hall Indian Reservation.

Zone 5: Valley County.

White-Fronted Geese

Zone 1: All lands and waters within the Fort Hall Indian Reservation, including private in-holdings; Bannock County; Bingham County except that portion within the Blackfoot Reservoir drainage; Caribou County within the Fort Hall Indian Reservation; and Power County east of State Highway 37 and State Highway 39.

Zone 2: Bear Lake, Bonneville, Butte, Clark, Fremont, Jefferson, Madison, and Teton Counties; Bingham County within the Blackfoot Reservoir drainage; and Caribou County except within the Fort Hall Indian Reservation.

Zone 3: Adams, Benewah, Blaine, Bonner, Boundary, Camas, Clearwater, Custer, Franklin, Idaho, Kootenai, Latah, Lemhi, Lewis, Nez Perce, Oneida, and Shoshone Counties; and Power County west of State Highway 37 and State Highway 39.

Zone 4: Ada, Boise, Canyon, Cassia, Elmore, Gem, Gooding, Jerome, Lincoln, Minidoka, Owyhee, Payette, Twin Falls, and Washington Counties.

Zone 5: Valley County.

Light Geese

Zone 1: All lands and waters within the Fort Hall Indian Reservation, including private in-holdings; Bannock County; Bingham County east of the west bank of the Snake River, west of the McTucker boat ramp access road, and east of the American Falls Reservoir bluff, except that portion within the Blackfoot Reservoir drainage; Caribou County within the Fort Hall Indian Reservation; and Power County below the American Falls Reservoir bluff, and within the Fort Hall Indian Reservation.

Zone 2: Franklin and Oneida Counties; Bingham County west of the west bank of the Snake River, east of the McTucker boat ramp access road, and west of the American Falls Reservoir bluff; Power County, except below the American Falls Reservoir bluff and those lands and waters within the Fort Hall Indian Reservation.

Zone 3: Ada, Boise, Canyon, Cassia, Elmore, Gem, Gooding, Jerome, Lincoln, Minidoka, Owyhee, Payette, Twin Falls, and Washington Counties.

Zone 4: Adams, Benewah, Blaine, Bonner, Boundary, Camas, Clearwater, Custer, Idaho, Kootenai, Latah, Lemhi, Lewis, Nez Perce, and Shoshone Counties.

Zone 5: Bear Lake, Bonneville, Butte, Clark, Fremont, Jefferson, Madison, and Teton Counties; Bingham County within the Blackfoot Reservoir drainage; and Caribou County except within the Fort Hall Indian Reservation.

Zone 6: Valley County.

Nevada

Same zones as for ducks.

New Mexico (Pacific Flyway Portion)

North Zone: The Pacific Flyway portion of New Mexico located north of I–40.

South Zone: The Pacific Flyway portion of New Mexico located south of I–40.

Oregon

Northwest Permit Zone: Benton, Clackamas, Clatsop, Columbia, Lane, Lincoln, Linn, Marion, Multnomah, Polk, Tillamook, Washington, and Yamhill Counties.

Tillamook County Management Area: That portion of Tillamook County beginning at the point where Old Woods Road crosses the south shores of Horn Creek, north on Old Woods Road to Sand Lake Road at Woods, north on Sand Lake Road to the intersection with McPhillips Drive, due west (~200 yards) from the intersection to the Pacific coastline, south along the Pacific coastline to a point due west of the western end of Pacific Avenue in Pacific City, east from this point (~250 yards) to Pacific Avenue, east on Pacific Avenue to Brooten Road, south and then east on Brooten Road to Highway 101, north on Highway 101 to Resort Drive, north on Resort Drive to a point due west of the south shores of Horn Creek at its confluence with the Nestucca River, due east (~80 yards) across the Nestucca River to the south shores of Horn Creek, east along the south shores of Horn Creek to the point of beginning.

Southwest Zone: Those portions of Douglas, Coos, and Curry Counties east of Highway 101, and Josephine and Jackson Counties.

South Coast Zone: Those portions of Douglas, Coos, and Curry Counties west of Highway 101.

Eastern Zone: Baker, Crook, Deschutes, Grant, Harney, Jefferson, Klamath, Lake, Malheur, Union, Wallowa, and Wheeler Counties.

Mid-Columbia Zone: Gilliam, Hood River, Morrow, Sherman, Umatilla, and Wasco Counties.

Utah

East Box Elder County Zone: Boundary begins at the intersection of the eastern boundary of Public Shooting Grounds Waterfowl Management Area and SR–83 (Promontory Road); east along SR–83 to I–15; south on I–15 to the Perry access road; southwest along

this road to the Bear River Bird Refuge boundary; west, north, and then east along the refuge boundary until it intersects the Public Shooting Grounds Waterfowl Management Area boundary; east and north along the Public Shooting Grounds Waterfowl Management Area boundary to SR–83.

Wasatch Front Zone: Boundary begins at the Weber-Box Elder County line at I–15; east along Weber County line to U.S.–89; south on U.S.–89 to I–84; east and south on I–84 to I–80; south on I–80 to U.S.–189; south and west on U.S.–189 to the Utah County line; southeast and then west along this line to the Tooele County line; north along the Tooele County line to I–80; east on I–80 to Exit 99; north from Exit 99 along a direct line to the southern tip of Promontory Point and Promontory Road; east and north along this road to the causeway separating Bear River Bay from Ogden Bay; east on this causeway to the southwest corner of Great Salt Lake Mineral Corporations (GSLMC) west impoundment; north and east along GSLMC's west impoundment to the northwest corner of the impoundment; north from this point along a direct line to the southern boundary of Bear River Migratory Bird Refuge; east along this southern boundary to the Perry access road; northeast along this road to I–15; south along I–15 to the Weber-Box Elder County line.

Southern Zone: Boundary includes Beaver, Carbon, Emery, Garfield, Grand, Iron, Juab, Kane, Millard, Piute, San Juan, Sanpete, Sevier, Washington, and Wayne Counties, and that part of Tooele County south of I–80.

Northern Zone: The remainder of Utah not included in the East Box Elder County, Wasatch Front, and Southern Zones.

Washington

Area 1: Skagit and Whatcom Counties, and that portion of Snohomish County west of Interstate 5.

Area 2 Inland (Southwest Permit Zone): Clark, Cowlitz, and Wahkiakum Counties, and that portion of Grays Harbor County east of Highway 101.

Area 2 Coastal (Southwest Permit Zone): Pacific County and that portion of Grays Harbor County west of Highway 101.

Area 3: All areas west of the Pacific Crest Trail and west of the Big White Salmon River that are not included in Areas 1, 2 Coastal, and 2 Inland.

Area 4: Adams, Benton, Chelan, Douglas, Franklin, Grant, Kittitas, Lincoln, Okanogan, Spokane, and Walla Walla Counties.

Area 5: All areas east of the Pacific Crest Trail and east of the Big White Salmon River that are not included in Area 4.

Brant

Pacific Flyway

California

Northern Zone: Del Norte, Humboldt, and Mendocino Counties.

Balance of State Zone: The remainder of the State not included in the Northern Zone.

Washington

Puget Sound Zone: Clallam, Skagit, and Whatcom Counties.

Coastal Zone: Pacific County.

Swans

Central Flyway

South Dakota

Open Area: Aurora, Beadle, Brookings, Brown, Brule, Buffalo, Campbell, Clark, Codington, Davison, Day, Deuel, Edmunds, Faulk, Grant, Hamlin, Hand, Hanson, Hughes, Hyde, Jerauld, Kingsbury, Lake, Marshall, McCook, McPherson, Miner, Minnehaha, Moody, Potter, Roberts, Sanborn, Spink, Sully, and Walworth Counties.

Pacific Flyway

Idaho

Open Area: Benewah, Bonner, Boundary, and Kootenai Counties.

Montana (Pacific Flyway Portion)

Open Area: Cascade, Chouteau, Hill, Liberty, and Toole Counties and those portions of Pondera and Teton Counties lying east of U.S. 287–89.

Nevada

Open Area: Churchill, Lyon, and Pershing Counties.

Utah

Open Area: Those portions of Box Elder, Weber, Davis, Salt Lake, and Toole Counties lying west of I–15, north of I–80, and south of a line beginning from the Forest Street exit to the Bear River National Wildlife Refuge boundary; then north and west along the Bear River National Wildlife Refuge boundary to the farthest west boundary of the Refuge; then west along a line to Promontory Road; then north on Promontory Road to the intersection of SR 83; then north on SR 83 to I–84; then north and west on I–84 to State Hwy 30; then west on State Hwy 30 to the Nevada-Utah State line; then south on the Nevada-Utah State line to I–80.

Doves

Alabama

South Zone: Baldwin, Coffee, Covington, Dale, Escambia, Geneva, Henry, Houston, and Mobile Counties.

North Zone: Remainder of the State.

Florida

Northwest Zone: The Counties of Bay, Calhoun, Escambia, Franklin, Gadsden, Gulf, Holmes, Jackson, Liberty, Okaloosa, Santa Rosa, Walton, Washington, Leon (except that portion north of U.S. 27 and east of State Road 155), Jefferson (south of U.S. 27, west of State Road 59 and north of U.S. 98), and Wakulla (except that portion south of U.S. 98 and east of the St. Marks River).

South Zone: The remainder of the State.

Louisiana

North Zone: That portion of the State north of a line extending east from the Texas border along State Highway 12 to U.S. Highway 190, east along U.S. Highway 190 to Interstate Highway 12, east along Interstate Highway 12 to Interstate Highway 10, then east along Interstate Highway 10 to the Mississippi border.

South Zone: The remainder of the State.

Mississippi

North Zone: That portion of the State north and west of a line extending west from the Alabama State line along U.S. Highway 84 to its junction with State Highway 35, then south along State Highway 35 to the Louisiana State line.

South Zone: The remainder of Mississippi.

Oregon

Zone 1: Benton, Clackamas, Clatsop, Columbia, Coos, Curry, Douglas, Gilliam, Hood River, Jackson, Josephine, Lane, Lincoln, Linn, Marion, Morrow, Multnomah, Polk, Sherman, Tillamook, Umatilla, Wasco, Washington, and Yamhill Counties.

Zone 2: The remainder of Oregon not included in Zone 1.

Texas

North Zone: That portion of the State north of a line beginning at the International Bridge south of Fort Hancock; north along FM 1088 to TX 20; west along TX 20 to TX 148; north along TX 148 to I–10 at Fort Hancock; east along I–10 to I–20; northeast along I–20 to I–30 at Fort Worth; northeast along I–30 to the Texas-Arkansas State line.

Central Zone: That portion of the State lying between the North and South Zones.

South Zone: That portion of the State south and west of a line beginning at the International Bridge south of Del Rio, proceeding east on U.S. 90 to State Loop 1604 west of San Antonio; then south, east, and north along Loop 1604 to I–10 east of San Antonio; then east on I–10 to Orange, Texas.

Special White-winged Dove Area: Same as the South Zone.

New Mexico

North Zone: That portion of the State north of a line following I–40 from the Arizona border east to U.S. Hwy 54 at Tucumcari and U.S. Hwy 54 at Tucumcari east to the Texas border.

South Zone: The remainder of the State not included in the North Zone.

Band-Tailed Pigeons

California

North Zone: Alpine, Butte, Del Norte, Glenn, Humboldt, Lassen, Mendocino, Modoc, Plumas, Shasta, Sierra, Siskiyou, Tehama, and Trinity Counties.

South Zone: The remainder of the State not included in the North Zone.

New Mexico

North Zone: That portion of the State north and east of a line following U.S. 60 from the Arizona border east to I–25 at Socorro and I–25 at Socorro south to the Texas border.

South Zone: The remainder of the State not included in the North Zone.

Washington

Western Washington: The State of Washington excluding those portions lying east of the Pacific Crest Trail and east of the Big White Salmon River in Klickitat County.

American Woodcock

New Jersey

North Zone: That portion of the State north of NJ 70.

South Zone: The remainder of the State.

Sandhill Cranes

Mississippi Flyway

Alabama

Open Area: That area north of Interstate 20 from the Georgia State line to the interchange with Interstate 65, then east of Interstate 65 to the interchange with Interstate 22, then north of Interstate 22 to the Mississippi State line.

Minnesota

Northwest Zone: That portion of the State encompassed by a line extending east from the North Dakota border along U.S. Highway 2 to State Trunk Highway (STH) 32, north along STH 32 to STH 92, east along STH 92 to County State Aid Highway (CSAH) 2 in Polk County, north along CSAH 2 to CSAH 27 in Pennington County, north along CSAH 27 to STH 1, east along STH 1 to CSAH 28 in Pennington County, north along CSAH 28 to CSAH 54 in Marshall County, north along CSAH 54 to CSAH 9 in Roseau County, north along CSAH 9 to STH 11, west along STH 11 to STH 310, and north along STH 310 to the Manitoba border.

Tennessee

Southeast Crane Zone: That portion of the State south of Interstate 40 and east of State Highway 56.

Remainder of State: That portion of Tennessee outside of the Southeast Crane Zone.

Central Flyway

Colorado

Open Area: The Central Flyway portion of the State except the San Luis Valley (Alamosa, Conejos, Costilla, Hinsdale, Mineral, Rio Grande, and Saguache Counties east of the Continental Divide) and North Park (Jackson County).

Kansas

Central Zone: That portion of the State within an area bounded by a line beginning where I–35 crosses the Kansas-Oklahoma border, then north on I–35 to Wichita, then north on I–135 to Salina, then north on U.S. 81 to the Nebraska border, then west along the Kansas/Nebraska border to its intersection with Hwy 283, then south on Hwy 283 to the intersection with Hwy 18/24, then east along Hwy 18 to Hwy 183, then south on Hwy 183 to Route 1, then south on Route 1 to the Oklahoma border, then east along the Kansas/Oklahoma border to where it crosses I–35.

West Zone: That portion of the State west of the western boundary of the Central Zone.

Montana

Regular Season Open Area: The Central Flyway portion of the State except for that area south and west of Interstate 90, which is closed to sandhill crane hunting.

Special Season Open Area: Carbon County.

New Mexico

Regular-Season Open Area: Chaves, Curry, De Baca, Eddy, Lea, Quay, and Roosevelt Counties.

Special Season Open Areas

Middle Rio Grande Valley Area: The Central Flyway portion of New Mexico in Socorro and Valencia Counties.

Estancia Valley Area: Those portions of Santa Fe, Torrance, and Bernallilo Counties within an area bounded on the west by New Mexico Highway 55 beginning at Mountainair north to NM 337, north to NM 14, north to I–25; on the north by I–25 east to U.S. 285; on the east by U.S. 285 south to U.S. 60; and on the south by U.S. 60 from U.S. 285 west to NM 55 in Mountainair.

Southwest Zone: Area bounded on the south by the New Mexico-Mexico border; on the west by the New Mexico-Arizona border north to Interstate 10; on the north by Interstate 10 east to U.S. 180, north to NM 26, east to NM 27, north to NM 152, and east to Interstate 25; on the east by Interstate 25 south to Interstate 10, west to the Luna County line, and south to the New Mexico-Mexico border.

North Dakota

Area 1: That portion of the State west of U.S. 281.

Area 2: That portion of the State east of U.S. 281.

Oklahoma

Open Area: That portion of the State west of I–35.

South Dakota

Open Area: That portion of the State lying west of a line beginning at the South Dakota-North Dakota border and State Highway 25, south on State Highway 25 to its junction with State Highway 34, east on State Highway 34 to its junction with U.S. Highway 81, then south on U.S. Highway 81 to the South Dakota-Nebraska border.

Texas

Zone A: That portion of Texas lying west of a line beginning at the international toll bridge at Laredo, then northeast along U.S. Highway 81 to its junction with Interstate Highway 35 in Laredo, then north along Interstate Highway 35 to its junction with Interstate Highway 10 in San Antonio, then northwest along Interstate Highway 10 to its junction with U.S. Highway 83 at Junction, then north along U.S. Highway 83 to its junction with U.S. Highway 62, 16 miles north of Childress, then east along U.S. Highway 62 to the Texas-Oklahoma State line.

Zone B: That portion of Texas lying within boundaries beginning at the junction of U.S. Highway 81 and the Texas-Oklahoma State line, then southeast along U.S. Highway 81 to its junction with U.S. Highway 287 in

Montague County, then southeast along U.S. Highway 287 to its junction with Interstate Highway 35W in Fort Worth, then southwest along Interstate Highway 35 to its junction with Interstate Highway 10 in San Antonio, then northwest along Interstate Highway 10 to its junction with U.S. Highway 83 in the town of Junction, then north along U.S. Highway 83 to its junction with U.S. Highway 62, 16 miles north of Childress, then east along U.S. Highway 62 to the Texas-Oklahoma State line, then south along the Texas-Oklahoma State line to the south bank of the Red River, then eastward along the vegetation line on the south bank of the Red River to U.S. Highway 81.

Zone C: The remainder of the State, except for the closed areas.

Closed areas:

A. That portion of the State lying east and north of a line beginning at the junction of U.S. Highway 81 and the Texas-Oklahoma State line, then southeast along U.S. Highway 81 to its junction with U.S. Highway 287 in Montague County, then southeast along U.S. Highway 287 to its junction with I–35W in Fort Worth, then southwest along I–35 to its junction with U.S. Highway 290 East in Austin, then east along U.S. Highway 290 to its junction with Interstate Loop 610 in Harris County, then south and east along Interstate Loop 610 to its junction with Interstate Highway 45 in Houston, then south on Interstate Highway 45 to State Highway 342, then to the shore of the Gulf of Mexico, and then north and east along the shore of the Gulf of Mexico to the Texas-Louisiana State line.

B. That portion of the State lying within the boundaries of a line beginning at the Kleberg-Nueces County line and the shore of the Gulf of Mexico, then west along the County line to Park Road 22 in Nueces County, then north and west along Park Road 22 to its junction with State Highway 358 in Corpus Christi, then west and north along State Highway 358 to its junction with State Highway 286, then north along State Highway 286 to its junction with Interstate Highway 37, then east along Interstate Highway 37 to its junction with U.S. Highway 181, then north and west along U.S. Highway 181 to its junction with U.S. Highway 77 in Sinton, then north and east along U.S. Highway 77 to its junction with U.S. Highway 87 in Victoria, then south and east along U.S. Highway 87 to its junction with State Highway 35 at Port Lavaca, then north and east along State Highway 35 to the south end of the Lavaca Bay Causeway, then south and east along the shore of Lavaca Bay to its junction with the Port Lavaca Ship Channel, then south and east along the Lavaca Bay Ship Channel to the Gulf of Mexico, and then south and west along the shore of the Gulf of Mexico to the Kleberg-Nueces County line.

Wyoming

Area 7: Campbell, Converse, Crook, Goshen, Laramie, Niobrara, Platte, and Weston Counties.

Area 4: All lands within the Bureau of Reclamation's Riverton and Boysen Unit boundaries; those lands within Boysen State Park south of Cottonwood Creek, west of Boysen Reservoir, and south of U.S. Highway 20–26; and all non-Indian owned fee title lands within the exterior boundaries of the Wind River Reservation, excluding those lands within Hot Springs County.

Area 6: Big Horn, Hot Springs, Park, and Washakie Counties.

Area 8: Johnson, Natrona, and Sheridan Counties.

Pacific Flyway

Arizona

Zone 1: Beginning at the junction of the New Mexico State line and U.S. Hwy 80; south along the State line to the U.S.-Mexico border; west along the border to the San Pedro River; north along the San Pedro River to the junction with Arizona Hwy 77; northerly along Arizona Hwy 77 to the Gila River; northeast along the Gila River to the San Carlos Indian Reservation boundary; south then east and north along the reservation boundary to U.S. Hwy 70; southeast on U.S. Hwy 70 to U.S. Hwy 191; south on U.S. Hwy 191 to the 352 exit on I–10; east on I–10 to Bowie-Apache Pass Road; southerly on the Bowie-Apache Pass Road to Arizona Hwy 186; southeasterly on Arizona Hwy 186 to Arizona Hwy 181; south on Arizona Hwy 181 to the West Turkey Creek-Kuykendall cutoff road; southerly on the Kuykendall cutoff road to Rucker Canyon Road; easterly on Rucker Canyon Road to the Tex Canyon Road; southerly on Tex Canyon Road to U.S. Hwy 80; northeast on U.S. Hwy 80 to the New Mexico State line.

Zone 2: Beginning at I–10 and the New Mexico State line; north along the State line to Arizona Hwy 78; southwest on Arizona Hwy 78 to U.S. Hwy 191; northwest on U.S. Hwy 191 to Clifton; westerly on the Lower Eagle Creek Road (Pump Station Road) to Eagle Creek; northerly along Eagle Creek to the San Carlos Indian Reservation boundary; southerly and west along the reservation boundary to U.S. Hwy 70; southeast on U.S. Hwy 70 to U.S. Hwy 191; south on U.S. Hwy 191 to I–10; easterly on I–10 to the New Mexico State line.

Zone 3: Beginning on I–10 at the New Mexico State line; westerly on I–10 to the Bowie-Apache Pass Road; southerly on the Bowie-Apache Pass Road to AZ Hwy 186; southeast on AZ Hwy 186 to AZ Hwy 181; south on AZ Hwy 181 to the West Turkey Creek-Kuykendall cutoff road; southerly on the Kuykendall cutoff road to Rucker Canyon Road; easterly on the Rucker Canyon Road to Tex Canyon Road; southerly on Tex Canyon Road to U.S. Hwy 80; northeast on U.S. Hwy 80 to the New Mexico State line; north along the State line to I–10.

Idaho

Area 1: All of Bear Lake County and all of Caribou County except that portion lying within the Grays Lake Basin.

Area 2: All of Teton County except that portion lying west of State Highway 33 and south of Packsaddle Road (West 400 North) and north of the North Cedron Road (West 600 South) and east of the west bank of the Teton River.

Area 3: All of Fremont County except the Chester Wetlands Wildlife Management Area.

Area 4: All of Jefferson County.

Area 5: All of Bannock County east of Interstate 15 and south of U.S. Highway 30; and all of Franklin County.

Area 6: That portion of Oneida County within the boundary beginning at the intersection of the Idaho-Utah border and Old Highway 191, then north on Old Highway 191 to 1500 S, then west on 1500 S to Highway 38, then west on Highway 38 to 5400 W, then south on 5400 W to Pocatello Valley Road, then west and south on Pocatello Valley Road to 10000 W, then south on 10000 W to the Idaho-Utah border, then east along the Idaho-Utah border to the beginning point.

Montana

Zone 1: Those portions of Deer Lodge County lying within the following described boundary: beginning at the intersection of I–90 and Highway 273, then westerly along Highway 273 to the junction of Highway 1, then southeast along said highway to Highway 275 at Opportunity, then east along said highway to East Side County road, then north along said road to Perkins Lane, then west on said lane to I–90, then north on said interstate to the junction of Highway 273, the point of beginning. Except for sections 13 and 24, T5N, R10W; and Warm Springs Pond number 3.

Zone 2: That portion of the Pacific Flyway, located in Powell County lying within the following described boundary: beginning at the junction of

State Routes 141 and 200, then west along Route 200 to its intersection with the Blackfoot River at Russell Gates Fishing Access Site (Powell-Missoula County line), then southeast along said river to its intersection with the Ovando-Helmville Road (County Road 104) at Cedar Meadows Fishing Access Site, then south and east along said road to its junction with State Route 141, then north along said route to its junction with State Route 200, the point of beginning.

Zone 3: Beaverhead, Gallatin, Jefferson, and Madison Counties.

Zone 4: Broadwater County.

Zone 5: Cascade and Teton Counties.

Utah

Cache County: Cache County.

East Box Elder County: That portion of Box Elder County beginning on the Utah-Idaho State line at the Box Elder-Cache County line; west on the State line to the Pocatello Valley County Road; south on the Pocatello Valley County Road to I–15; southeast on I–15 to SR–83; south on SR–83 to Lamp Junction; west and south on the Promontory Point County Road to the tip of Promontory Point; south from Promontory Point to the Box Elder-Weber County line; east on the Box Elder-Weber County line to the Box Elder-Cache County line; north on the Box Elder-Cache County line to the Utah-Idaho State line.

Rich County: Rich County.

Uintah Basin: Uintah and Duchesne Counties.

Wyoming

Area 1: All of the Bear River and Ham's Fork River drainages in Lincoln County.

Area 2: All of the Salt River drainage in Lincoln County south of the McCoy Creek Road.

Area 3: All lands within the Bureau of Reclamation's Eden Project in Sweetwater County.

Area 5: Uinta County.

All Migratory Game Birds in Alaska

North Zone: State Game Management Units 11–13 and 17–26.

Gulf Coast Zone: State Game Management Units 5–7, 9, 14–16, and 10 (Unimak Island only).

Southeast Zone: State Game Management Units 1–4.

Pribilof and Aleutian Islands Zone: State Game Management Unit 10 (except Unimak Island).

Kodiak Zone: State Game Management Unit 8.

All Migratory Game Birds in the Virgin Islands

Ruth Cay Closure Area: The island of Ruth Cay, just south of St. Croix.

All Migratory Game Birds in Puerto Rico

Municipality of Culebra Closure Area: All of the municipality of Culebra.

Desecheo Island Closure Area: All of Desecheo Island.

Mona Island Closure Area: All of Mona Island.

El Verde Closure Area: Those areas of the municipalities of Rio Grande and Loiza delineated as follows: (1) All lands between Routes 956 on the west and 186 on the east, from Route 3 on the north to the juncture of Routes 956 and 186 (Km 13.2) in the south; (2) all lands between Routes 186 and 966 from the juncture of 186 and 966 on the north, to the Caribbean National Forest Boundary on the south; (3) all lands lying west of Route 186 for 1 kilometer from the juncture of Routes 186 and 956 south to Km 6 on Route 186; (4) all lands within Km 14 and Km 6 on the west and the Caribbean National Forest Boundary on the east; and (5) all lands within the Caribbean National Forest Boundary whether private or public.

Cidra Municipality and adjacent areas: All of Cidra Municipality and portions of Aguas Buenas, Caguas, Cayey, and Comerio Municipalities as encompassed within the following boundary: Beginning on Highway 172 as it leaves the municipality of Cidra on the west edge, north to Highway 156, east on Highway 156 to Highway 1, south on Highway 1 to Highway 765, south on Highway 765 to Highway 763, south on Highway 763 to the Rio Guavate, west along Rio Guavate to Highway 1, southwest on Highway 1 to Highway 14, west on Highway 14 to Highway 729, north on Highway 729 to Cidra Municipality boundary to the point of the beginning.

List of Subjects in 50 CFR Part 20

Hunting, Reporting and recordkeeping requirements, Wildlife

Shannon A. Estenoz,

Principal Deputy Assistant Secretary for Fish and Wildlife and Parks, Exercising the Delegated Authority of the Assistant Secretary for Fish and Wildlife and Parks.

Regulation Promulgation

Accordingly, we amend part 20, subpart N of title 50 of the Code of Federal Regulations as follows:

PART 20—MIGRATORY BIRD HUNTING

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

Authority: 16 U.S.C. 703 *et seq.,* and 16 U.S.C. 742 a–j.

■ 2. In § 20.153, revise paragraph (a) to read as follows:

§ 20.153 Regulations committee.

(a) *Notice of meetings.* Notice of each meeting of the Regulations Committee to be attended by any person outside the Department of the Interior will be published in the **Federal Register** or online on the U.S. Fish and Wildlife Service's Migratory Bird Program website at least 2 weeks before the meeting. The notice will state the time, place, and general subject(s) of the meeting, as well as the extent of public involvement.

* * * * *

■ 3. In § 20.154, revise paragraph (a) to read as follows:

§ 20.154 Flyway Councils.

(a) *Notice of meetings.* Notice of each meeting of a Flyway Council to be attended by any official of the Department of the Interior will be published in the **Federal Register** or online on the U.S. Fish and Wildlife Service's Migratory Bird Program website at least 2 weeks before the meeting or as soon as practicable after the Department of the Interior learns of the meeting. The notice will state the time, place, and general subject(s) of the meeting.

* * * * *

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