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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 925

[Doc. No. AMS–FV–14–0010; FV14–925–1 FR]

Grapes Grown in a Designated Area of Southeastern California; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule increases the assessment rate established for the California Desert Grape Administrative Committee (Committee) for the 2014 and subsequent fiscal periods from $0.0165 to $0.0200 per 18-pound lug of grapes handled. The Committee locally administers the marketing order, which regulates the handling of grapes grown in a designated area of southeastern California. Assessments upon grape handlers are used by the Committee to fund reasonable and necessary expenses of the program. The fiscal period began on January 1 and ends on December 31. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

DATES: *Effective Date:* May 14, 2014.

FOR FURTHER INFORMATION CONTACT: Kathie M. Notoro, Marketing Specialist, or Martin Engeler, Regional Director, California Marketing Field Office, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA; Telephone: (559) 487–5901, Fax: (559) 487–5906, or Email: *Kathie.Notoro@ams.usda.gov* or *Martin.Engeler@ams.usda.gov*.

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

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Order No. 925, as amended (7 CFR part 925), regulating the handling of grapes grown in a designated area of southeastern California, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Orders 12866, 13563, and 13175.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, grape handlers in a designated area of southeastern California are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein is applicable to all assessable grapes beginning on January 1, 2014, and will continue until amended, suspended, or terminated.

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

This rule increases the assessment rate established for the Committee for the 2014 and subsequent fiscal periods from $0.0165 to $0.0200 per 18-pound lug of grapes handled.

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

For the 2014 and subsequent fiscal periods, the Committee recommended, and the USDA approved, an assessment rate that would continue in effect from fiscal period to fiscal period unless modified, suspended, or terminated by USDA based upon a recommendation and information submitted by the Committee or other information available to USDA.

The Committee met on November 5, 2013, and unanimously recommended 2014 expenditures of $110,000 and an assessment rate of $0.0200 per 18-pound lug of grapes handled. In comparison, last year's budgeted expenditures were $100,000. The Committee recommended a crop estimate of 5,500,000 18-pound lugs, which is lower than the 5,800,000 18-pound lugs handled last year. The Committee also recommended carrying over a financial reserve of $49,000, which would increase to $59,000 if the contingency fund was not expended. The assessment rate of $0.0200 per 18-pound lug of grapes handled is $0.0035 higher than the $0.0165 rate currently in effect. The higher assessment rate, applied to shipments of 5,500,000 18-pound lugs, is expected to generate $110,000 in revenue and should be sufficient to cover the anticipated expenses.

The major expenditures recommended by the Committee for the 2014 fiscal period include $15,500 for research, $22,000 for general office expenses, $62,500 for management and compliance expenses, and $10,000 for a contingency reserve. The $15,500 research project is a continuation of a vine study in progress by the University of California, Riverside. In comparison, major expenditures for the 2013 fiscal period included $15,500 for research, $17,000 for general office expenses, and $67,500 for management and

compliance expenses. Overall 2014 expenditures include a decrease in management and compliance expenses, an increase in general office expenses, and additional funds for the contingency reserve.

The assessment rate recommended by the Committee was derived by evaluating several factors, including estimated shipments for the 2014 season, budgeted expenses, and the level of available financial reserves. The Committee determined that the $0.0200 assessment rate should generate $110,000 in revenue to cover the budgeted expenses of $110,000.

Reserve funds by the end of 2014 are projected to be $49,000 if the $10,000 added to the contingency fund is expended or $59,000 if it is not expended. Both amounts are well within the amount authorized under the order. Section 925.41 of the order permits the Committee to maintain approximately one fiscal period's expenses in reserve.

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

Although this assessment rate will be in effect for an indefinite period, the Committee will continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or USDA. Committee meetings are open to the public and interested persons may express their views at these meetings. USDA will evaluate the Committee's recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The Committee's 2014 budget and those for subsequent fiscal periods will be reviewed and, as appropriate, approved by USDA.

Final Regulatory Flexibility Analysis

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

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

There are approximately 15 handlers of southeastern California grapes who are subject to regulation under the marketing order and about 41 grape producers in the production area. Small agricultural service firms are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than $7,000,000, and small agricultural producers are defined as those whose annual receipts are less than $750,000. Ten of the 15 handlers subject to regulation have annual grape sales of less than $7,000,000, according to USDA Market News Service and Committee data. Based on information from the Committee and USDA's Market News Service, it is estimated that at least 10 of the 41 producers have annual receipts of less than $750,000. Thus, it may be concluded that a majority of the grape handlers regulated under the order and about 10 of the producers could be classified as small entities under the Small Business Administration's definitions.

This rule increases the assessment rate established for the Committee and collected from handlers for the 2014 and subsequent fiscal periods from $0.0165 to $0.0200 per 18-pound lug of grapes. The Committee unanimously recommended 2014 expenditures of $110,000 and an assessment rate of $0.0200 per 18-pound lug of grapes handled. The assessment rate of $0.0200 is $0.0035 higher than the 2013 rate currently in effect. The quantity of assessable grapes for the 2014 season is estimated at 5,500,000 18-pound lugs. Thus, the $0.0200 rate should generate $110,000 in income. In addition, reserve funds at the end of the year are projected to be $49,000, which is well within the order's limitation of approximately one fiscal period's expenses.

The major expenditures recommended by the Committee for the 2014 fiscal period include $15,500 for research, $22,000 for general office expenses, $62,500 for management and compliance expenses, and $10,000 for the contingency reserve. In comparison, major expenditures for the 2013 fiscal period included $15,500 for research, $17,000 for general office expenses, and $67,500 for management and compliance expenses. Overall expenditures included a decrease in management and compliance expenses, an increase in general office expenses, and funding of a contingency reserve.

Prior to arriving at this budget, the Committee considered alternative expenditures and assessment rates, including not increasing the $0.0165 assessment rate currently in effect. Based on a crop estimate of 5,500,000 18-pound lugs, the Committee ultimately determined that increasing the assessment rate to $0.0200 would generate sufficient funds to cover budgeted expenses. Reserve funds at the end of the 2014 fiscal period are projected to be $49,000 if the $10,000 contingency fund is expended or $59,000 if it is not expended. These amounts are well within the amount authorized under the order.

A review of historical crop and price information, as well as preliminary information pertaining to the upcoming fiscal period, indicates that the producer price for the 2013 season averaged about $16.20 per 18-pound lug of California grapes handled. Utilizing the estimate and the assessment rate of $0.0200, estimated assessment revenue as a percentage of total estimated producer revenue would be 0.12 percent for the 2014 season ($0.0200 divided by $16.20 per 18-pound lug). Thus, the assessment revenue should be well below 1 percent of estimated producer revenue in 2014.

This action increases the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to producers. However, these costs should be offset by the benefits derived from the operation of the marketing order. In addition, the Executive Subcommittee and the Committee's meetings were widely publicized throughout the grape production area, and all interested persons were invited to attend and participate in Committee deliberations on all issues. Like all Committee meetings, the November 5, 2013, meeting was a public meeting and all entities, both large and small, were able to express views on this issue.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the order's information collection requirements have been previously approved by the Office of Management and Budget (OMB) and assigned OMB No. 0581–0189 Generic Fruit Crops. No changes in those requirements as a result of this action are necessary. Should any changes become necessary, they would be submitted to OMB for approval.

This rule imposes no additional reporting or recordkeeping requirements on either small or large California grape

handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. As noted in the initial regulatory flexibility analysis, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this final rule.

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

A proposed rule concerning this action was published in the **Federal Register** on March 31, 2014 (79 FR 17940). Copies of the proposed rule were also mailed or sent via facsimile to all grape handlers. Finally, the proposal was made available through the internet by USDA and the Office of the Federal Register. A 15-day comment period ending on April 15, 2014, was provided for interested persons to respond to the proposal. No comments were received.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *http://www.ams.usda.gov/MarketingOrdersSmallBusinessGuide*. Any questions about the compliance guide should be sent to Jeffrey Smutny at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

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

Pursuant to 5 U.S.C. 553, it is also found and determined that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) The 2014 fiscal period began on January 1, 2014, and the order requires that the rate of assessment for each fiscal period apply to all assessable grapes handled during such fiscal period; (2) the Committee needs to have sufficient funds to pay its expenses, which are incurred on a continuous basis; (3) handlers are aware of this action, which was unanimously recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years; and (4) a 15-day comment period was provided for in the proposed rule, and no comments were received.

List of Subjects in 7 CFR Part 925

Grapes, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 925 is amended as follows:

PART 925—GRAPES GROWN IN A DESIGNATED AREA OF SOUTHEASTERN CALIFORNIA

■ 1. The authority citation for 7 CFR part 925 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Section 925.215 is revised to read as follows:

§ 925.215 Assessment rate.

On and after January 1, 2014, an assessment rate of $0.0200 per 18-pound lug is established for grapes grown in a designated area of southeastern California.

Dated: May 7, 2014.

Rex A. Barnes,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2014–10988 Filed 5–12–14; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF HOMELAND SECURITY

8 CFR Parts 103 and 235

[Docket No. USCBP–2013–0029: CBP Decision No. 14–05]

RIN 1651–AB01

The U.S. Asia-Pacific Economic Cooperation Business Travel Card Program

AGENCY: U.S. Customs and Border Protection. DHS.

ACTION: Interim final rule.

SUMMARY: This interim final rule establishes the U.S. Asia-Pacific Economic Cooperation (APEC) Business Travel Card Program. APEC is an economic forum comprised of twenty-one members, including the United States, whose primary goal is to support sustainable economic growth and prosperity in the Asia-Pacific region. One of APEC's initiatives is the APEC Business Travel Card Program. The U.S. APEC Business Travel Card Program will provide qualified U.S. business travelers engaged in business in the APEC region or U.S. Government officials actively engaged in APEC business the ability to access fast-track immigration lanes at participating airports in foreign APEC economies. This rule sets forth the parameters of the program, the eligibility requirements, the application procedures, the duration of the program and the fee. In accordance with the authorizing law, DHS will not issue any new U.S. APEC Business Travel Cards or renew any U.S. APEC Business Travel Cards after September 30, 2018. Unless the law is amended to extend the duration of the U.S. APEC Business Travel Card Program, all U.S. APEC Business Travel Cards will expire by September 29, 2021.

DATES: This interim final rule is effective on June 12, 2014. Comments must be received on or before June 12, 2014.

ADDRESSES: You may submit comments, identified by docket number USCBP–2013–0029, by *one* of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Border Security Regulations Branch, Regulations and Rulings, Office of International Trade, U.S. Customs and Border Protection, 90 K Street NE., 10th Floor, Washington, DC 20229–1177.

Instructions: All submissions received must include the agency name and docket title for this rulemaking, and must reference docket number USCBP–2013–0029. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments and additional information on the rulemaking process, see the ''Public Participation'' heading of the **SUPPLEMENTARY INFORMATION** section of the document.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.* Submitted comments may also be inspected during regular business days between the hours of 9 a.m. and 4:30 p.m. at the Office of International Trade, Customs and Border Protection, 90 K Street NE., 10th Floor, Washington, DC. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 325–0118.

FOR FURTHER INFORMATION CONTACT: Mr. David Sanchez, Office of Field Operations, (202) 344–1004, *David.Sanchez@cbp.dhs.gov.*

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I. Public Participation

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments on all aspects of the rule. Comments that will provide the most assistance 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.

II. Background

A. The Asia-Pacific Economic Cooperation (APEC)

The United States is a member of APEC, which is an economic forum comprised of twenty-one members whose primary goal is to support sustainable economic growth and prosperity in the Asia-Pacific region.[1] The other members include: Australia, Brunei Darussalam, Canada, Chile, China, Hong Kong China, Indonesia, Japan, Korea, Malaysia, Mexico, New Zealand, Papua New Guinea, Peru, Philippines, Russia, Singapore, Chinese Taipei, Thailand, and Vietnam. One of APEC's primary goals is to facilitate business by reducing the costs of business transactions and to help importers and exporters in the Asia-Pacific region meet to conduct business more efficiently. APEC is committed to facilitating travel for qualified business people within the APEC region by promoting free, open trade and investment.

B. The APEC Business Travel Card Program

One of APEC's business facilitation initiatives is the APEC Business Travel Card (ABTC) Program. Under the ABTC Program, APEC members can issue cards to business travelers and senior government officials who meet certain standards established by the members to provide simpler short-term entry procedures within the APEC region. Applicants are screened against security and immigration databases to ensure that they are trusted travelers, and must be pre-cleared by participating members to receive the card.

1. ABTC Program Operating Framework

All twenty-one APEC members participate in the ABTC Program and intend to follow the operating procedures set out in the APEC Business Travel Card Operating Framework, dated October 2010 (''APEC Framework'').[2] The APEC Framework distinguishes between fully participating and transitional APEC members for purposes of the ABTC Program. Transitional members meet some, but not all, of the APEC Framework's principles and are committed to progressing towards meeting all the principles.

Of the twenty-one APEC members, nineteen are full members and two are transitional members of the ABTC Program. All nineteen fully participating APEC members currently issue ABTCs to their qualifying citizens and allow other members' card holders to apply for ''pre-clearance.''[3] Full members do not require any ABTC holders they have already pre-cleared to make a separate application for a business visa for travel to their member economy and expedited immigration processing when they arrive. Canada and the United States are currently transitional members because they do not offer visa-free travel for ABTC holders unless they otherwise qualify for visa-free travel, and they do not accept an application for ABTC pre-clearance in lieu of a visa application and applicable fees.

Under the APEC Framework, the ABTC enables access to fast-track immigration lanes at members' participating airports. All APEC members have fast-track immigration lanes for priority processing. In addition, under the APEC Framework, fully participating members may provide ''pre-clearance benefits'' to card holders of other fully participating members, meaning that the pre-cleared card holders would not need to complete a separate application for visas or entry permits to travel to the territory of other participating APEC members. Most fully participating ABTC member economies accept the ABTC in lieu of a visa for a pre-cleared card holder during the entire time the ABTC is valid. Pursuant to the APEC Framework, the card holder may also need to present a valid passport or other documentation (such as an arrival/departure card). Fully participating members may choose to provide full ''pre-clearance benefits'' to any transitional member whether or not the transitional member provides similar full ''pre-clearance benefits.'' The ABTC Program does not affect the right of each member economy to determine who may travel to, enter and remain in that economy, including ABTC holders.

2. Standards for ABTCs

According to the APEC Framework, each APEC member can either issue its own ABTCs or have a private entity issue them on its behalf. In either case, the APEC member may only issue an ABTC to its own citizens.[4] The design and content of the card is set out in the APEC Framework. The card follows standards produced by the International

[1] APEC members are also referred to as 'economies' since the APEC process is primarily concerned with trade and economic issues with the members engaging each other as economic entities. The most recently updated list of members is available at the APEC Web site at *www.apec.org/About-Us/About-APEC/Member-Economies.aspx*. For simplicity, we will generally refer to them in the preamble of this document as APEC members.

[2] Although participating members agree to adhere to the operating principles and procedures outlined, the document is not legally binding.

[3] The term pre-clearance as used in the APEC Framework has a different meaning than the usual meaning ascribed to that term by CBP, which is the tentative examination and inspection of air travelers and their baggage at foreign places where CBP personnel are stationed for that purpose.

[4] In the case of Hong Kong China, ABTCs may be issued to Hong Kong China permanent residents who hold Hong Kong permanent identity cards. See APEC Framework 3.1.2.

Civil Aviation Organization (ICAO) and includes: the card holder's signature, the document number, the issuing economy, the document type code, the document expiration date, and the surname and given name, sex and date of birth, and economy of the card holder.

Individuals may apply for the ABTC if they: are citizens of a participating economy [5]; have never been convicted of a criminal offense; hold a valid passport issued by the home economy [6]; and are bona fide business persons engaged in business who may need to travel frequently on short-term visits within the APEC region to fulfill business commitments. A bona fide business person is defined in the APEC Framework as a person who is engaged in the trade of goods, the provision of services, or the conduct of investment activities.

In addition, senior Government officials or other government officials actively engaged in APEC business may be eligible for an ABTC. Each APEC member determines its own definition of the term ''senior Government official.''

According to the APEC Framework, the following persons are not eligible for ABTCs: The business person's dependent spouse and children; persons who wish to engage in paid employment (obtain a paid employment position located in a foreign APEC economy) or a working holiday; and professional athletes, news correspondents, entertainers, musicians, artists, or persons engaged in similar occupations. These eligibility requirements apply whether the individual is a citizen [7] of a transitional or fully participating member. The APEC Framework provides that members may impose additional eligibility criteria.

Under the APEC Framework, APEC members may charge a fee to issue the ABTC, which is valid for three years from the date of issuance or the date the ABTC card holder's passport expires if that is earlier. The ABTC is not transferable. Although not explicitly stated in the APEC Framework, in order to continue receiving benefits, an ABTC holder must renew his or her ABTC and pay any requisite fee prior to the ABTC expiration. For more information on APEC and the ABTC, please refer to http://www.apec.org/.

C. U.S. Participation in ABTC

As a member of APEC, the United States recognizes ABTCs from other members and provides fast track immigration processing lanes, typically allowing ABTC holders to use diplomatic or crew lines at airports. However, as a transitional member in the ABTC Program, the United States does not offer visa-free travel for ABTC holders from economies that do not participate in the Visa Waiver Program or otherwise have visa free travel to the U.S., and does not accept an ABTC pre-clearance application in lieu of a visa application. ABTC holders entering the United States are subject to the inspection process that is applicable to other travelers, including the presentation of valid passports and, where applicable, valid visas.[8] Although the United States requires visas for ABTC holders to travel to the United States, it affords ABTC holders from APEC members expedited visa interview scheduling at embassies and consulates abroad. All U.S. embassies and consulates in APEC member economies have procedures to expedite the scheduling of visa interviews for ABTC holders seeking to travel to the United States.

The United States currently does not issue ABTCs to U.S. citizens.[9] Therefore, U.S. travelers visiting other APEC members do not receive similar expedited processing that individuals from other APEC members receive when they visit the United States.

On November 12, 2011, President Obama signed the Asia-Pacific Economic Cooperation Business Travel Cards Act of 2011 (APEC Act). Public Law 112–54, 125 Stat. 550. The APEC Act authorizes the Secretary of Homeland Security, in coordination with the Secretary of State, to issue U.S. ABTCs through September 30, 2018, to any eligible person, including business persons and U.S. Government officials actively engaged in APEC business. The APEC Act also authorizes the Secretary of Homeland Security to prescribe and collect a fee for the issuance of U.S. ABTCs. The APEC Act provides that an individual may not receive a U.S. ABTC unless the individual has been approved and is in good standing in an international trusted traveler program of DHS.

The APEC Act authorizes the Secretary of Homeland Security, in coordination with the Secretary of State, to prescribe the necessary regulations, including regulations regarding conditions of or limitations on eligibility for an ABTC. The APEC Act also provides that the Secretary of Homeland Security may consult with the appropriate private sector entities.

DHS has consulted closely with the Department of State regarding the establishment and policies of the U.S. ABTC Program. DHS has also consulted with the private sector through its participation in a discussion panel at the Asia-Pacific Council of American Chamber of Commerce and attendance at the APEC Business Mobility Group meetings.[10]

As a result of the APEC Act and DHS's consultation with the Department of State and the private sector, DHS is establishing a U.S. ABTC Program and plans to issue its own ABTCs (U.S. ABTCs). This action will allow U.S. citizens traveling to other APEC members to receive expedited processing that individuals from other APEC members receive when they visit the United States.

1. U.S. APEC Business Travel Card (ABTC) Program

This rule promulgates regulations that adhere to the current APEC Framework [11] as of the publication of this rule and implement the U.S. ABTC Program and fee. 8 CFR 235.13 and 8 CFR 103.7(b)(1)(ii)(N). Section 235.13 includes a general description of the program, eligibility requirements, application procedures, enrollment period, and the requirement to pay an application fee as specified in section 103.7(b)(1)(ii)(N). Section 103.7(b)(1)(ii)(N) specifies the amount of the fee.

2. General Description

The U.S. ABTC Program is a voluntary program designed to facilitate travel for bona fide U.S. business persons engaged in business in the APEC region and U.S. government officials actively engaged in APEC business within the APEC region.

[5] In the case of Hong Kong China, this applies to its permanent residents who hold Hong Kong permanent identity cards.

[6] In the case of Hong Kong China, this applies to its permanent residents who hold a Hong Kong Special Administrative Region passport or a valid travel document issued by another country or territory.

[7] In the case of Hong Kong China, ABTCs may be issued to Hong Kong China permanent residents who hold Hong Kong permanent identity cards.

[8] As provided in the APEC Framework, the ABTC scheme does not affect the right of each APEC economy to determine who may travel to, enter and remain in that economy, including after a business person has been issued an ABTC. Therefore, the issuance of a U.S. ABTC to a qualifying individual does not affect the right of a foreign APEC economy to determine whether the U.S. ABTC holder may travel to, enter and remain in that economy.

[9] The purpose of this regulation is to issue U.S. ABTCs to U.S. citizens.

[10] APEC Business Advisory Council representatives are invited to attend the APEC Business Mobility Group meetings.

[11] The current version of the APEC Framework is Version 17, agreed to on January 30, 2013. Any subsequent revisions to the APEC Framework that directly affect the U.S. ABTC may require a regulatory change.

Participants who receive a U.S. ABTC will be able to access fast-track immigration lanes at participating airports in foreign APEC member economies. *See* 8 CFR 235.13(a). A list of the airports where ABTC holders may access fast-track immigration lanes is available at *http://travel.apec.org/abtc-summary.html.*

3. Eligibility Requirements

This rule sets forth eligibility criteria for the U.S. ABTC Program that satisfy the requirements of the APEC Framework and the APEC Act. First, in accordance with the APEC Framework, to participate in the U.S. ABTC Program, the individual must be a U.S. citizen.

Second, this rule requires that the individual must be a bona fide business person engaged in business in the APEC region or a U.S. Government official actively engaged in APEC business. The rule defines several terms to determine whether an individual is eligible to participate in the program. For purposes of this rule only, DHS defines the APEC Framework term ''senior Government official'' to mean a U.S. Government official actively engaged in APEC business. DHS defines ''APEC business'' to mean U.S. government activities that support the work of APEC. Pursuant to the APEC Framework, a ''bona fide business person engaged in business in the APEC region'' means a person engaged in the trade of goods, the provision of services or the conduct of investment activities in the APEC region. As specified in the APEC Framework, professional athletes, news correspondents, entertainers, musicians, artists or persons engaged in similar occupations are not considered to be bona fide business travelers engaged in business in the APEC region.

Finally, this rule requires that the individual be an existing member in good standing of a CBP trusted traveler program or one who is approved for membership in a CBP trusted traveler program during the U.S. ABTC application process. This trusted traveler criterion is included in the APEC Act. Although the APEC Act refers to membership in a DHS trusted traveler program, not all DHS trusted traveler programs are compatible with U.S. ABTC travel. Therefore, DHS has limited eligibility to participants of the trusted traveler programs that are conducive with the type of international travel contemplated by the U.S. ABTC Program. These trusted traveler programs include: (a) Global Entry, (b) NEXUS, and (c) Secure Electronic Network for Travelers Rapid Inspection (SENTRI). These three CBP trusted traveler programs fit the parameters of the U.S. ABTC Program due to their eligibility requirements, vetting process and expedited processing at ports of entry.[12]

a. Global Entry

Global Entry is a voluntary international trusted traveler program that allows for the expedited clearance of pre-approved, low-risk travelers arriving in the United States at Global Entry kiosks located at designated airports. *See* 8 CFR 235.12. More information about the program is available at *http://www.globalentry.gov.*

b. NEXUS

NEXUS is a jointly administered U.S.-Canada trusted traveler program established in 2002 as part of the U.S.-Canada Shared Border Accord. NEXUS allows pre-approved, low-risk travelers expedited processing for land, air and sea travel between the United States and Canada at dedicated processing lanes at designated northern border land ports of entry, at NEXUS kiosks at U.S. pre-clearance airports in Canada, and at marine reporting locations. Additionally, NEXUS participants may utilize Global Entry kiosks. An applicant may qualify to participate in NEXUS if he or she is a citizen or lawful permanent resident of the United States or Canada. To participate in NEXUS, both the United States and Canada must approve the individual's application. Additional details regarding the NEXUS trusted traveler program may be found at *http://www.globalentry.gov/nexus.html.*

c. SENTRI

The SENTRI trusted traveler program allows pre-approved, low-risk travelers expedited entry at specified land border ports along the U.S.-Mexico border. Additionally, SENTRI participants may utilize Global Entry kiosks. The program is described in 8 CFR 235.7.[13] Additional details regarding the SENTRI trusted traveler program can be found at *http://www.globalentry.gov/sentri.html.*

d. Eligibility Requirements of Global Entry, NEXUS, and SENTRI

In general, to participate in any of these three CBP trusted traveler programs, a person must meet the eligibility requirements, apply in advance, pay the requisite non-refundable fee, undergo vetting by CBP, and be accepted into the program. All applicants must voluntarily undergo a thorough background check against criminal, law enforcement, customs, immigration, intelligence, and terrorist databases, a 10-fingerprint law enforcement check, and a personal interview with a CBP officer. Persons who, for example, have been convicted of a criminal offense may not be eligible for participation in CBP's trusted traveler programs. Travelers who wish to participate in Global Entry, NEXUS or SENTRI must apply via the Global On-Line Enrollment System (GOES) Web site, *https://goes-app.cbp.dhs.gov,* or other CBP-approved process. Applications must be completed and submitted electronically. After submitting the application, the applicant will be notified by CBP to schedule an in-person interview at one of the enrollment centers.

Each applicant accepted into a CBP trusted traveler program is accepted for a period of five years provided participation is not suspended or terminated by CBP prior to the end of the five years. Each applicant may apply to renew participation up to one year prior to the close of the participation period.

Under this rule, an individual who wants to apply for the U.S. ABTC Program and is not a member of a CBP trusted traveler program must also apply for a CBP trusted traveler program. An individual may either apply to a CBP trusted traveler program in advance of applying for a U.S. ABTC or may apply concurrently with the U.S. ABTC Program application. The details are explained in the section below entitled U.S. ABTC Application Process.

4. Conditions for Use of the U.S. ABTC

This rule specifies that pursuant to the APEC Framework, the U.S. ABTC is not transferable and may be used only by the U.S. ABTC holder and not anyone else including the card holder's spouse or child. It also provides that pursuant to the APEC Framework, in order to use the U.S. ABTC, the card holder must be traveling solely for business purposes in the foreign APEC economy and not engaging in paid employment in the foreign APEC economy. As stated in the APEC Framework, the ABTC is intended for business persons who travel frequently on short term visits within the APEC region to fulfill business commitments.

[12] Other DHS trusted traveler programs such as FAST and TSA Precheck do not fit the parameters of the U.S. ABTC Program due to their vetting process and their inapplicability to international air travel.

[13] SENTRI is also referred to as a PortPass program. Section 235.7 is the PortPass program regulation.

5. U.S. ABTC Application Process/ Payment of Fee

Under this rule, each applicant must complete and submit an application electronically through the GOES Web site or other approved process as determined by CBP. The current process is GOES. If CBP changes the approved process for submitting an application, the public will be notified through a **Federal Register** notice and the CBP Web site, *http://www.globalentry.gov.* To apply for a U.S. ABTC, an individual must apply via the GOES Web site, *https://goes-app.cbp.dhs.gov.* This is the same Web site that is used to apply for CBP's trusted traveler programs. A detailed description of the GOES process is contained in 8 CFR 235.12.

If the applicant is not already a member of a CBP trusted traveler program, he or she must also apply for a CBP trusted traveler program in GOES. Active membership in a CBP trusted traveler program is necessary for the entire duration of the U.S. ABTC. If membership in the CBP trusted traveler program is set to lapse before the U.S. ABTC expires, the individual must renew his or her CBP trusted traveler membership prior to expiration in order to retain membership in the U.S. ABTC Program.

To apply for the U.S. ABTC, the applicant checks the box in GOES indicating that he or she wishes to apply for the U.S. ABTC. The applicant is then prompted to the self-certification screen. This self-certification process requires the applicant to certify that he or she is an existing member in good standing in a CBP trusted traveler program or that he or she has submitted an application to a CBP trusted traveler program (indicating that CBP will verify that the individual is a trusted traveler); that he or she is either a bona fide U.S. business person engaged in business in the APEC region or a U.S. Government official actively engaged in APEC business; and that he or she is not a professional athlete, news correspondent, entertainer, musician, artist or person engaged in a similar occupation. The applicant must also provide a signature that will appear on the U.S. ABTC. CBP will collect the applicant's signature at a CBP trusted traveler enrollment center. The locations of enrollment centers are specified at *http://globalentry.gov/enrollmentcenters2.html.* The applicant must schedule an appointment at any enrollment center so that CBP can collect the signature. The collection will be performed by the applicant signing an electronic signature pad.

If the applicant is concurrently applying for NEXUS, SENTRI or Global Entry, an in-person interview with a CBP officer and vetting of the application is required as part of the CBP trusted traveler enrollment process. If the applicant is already a member of the CBP trusted traveler program and wishes to apply for a U.S. ABTC, he or she would select the U.S. ABTC option on GOES as an add-on, provide the self-certification, and pay the associated U.S. ABTC non-refundable fee. In such case, no additional interview is necessary. However, the applicant would still need to go to any enrollment center for the signature collection.

Each applicant must pay a non-refundable fee to be paid to CBP at the time of application through the Federal Government's on-line payment system, Pay.gov or another CBP-approved process. DHS has determined that the U.S. ABTC fee is $70. This fee calculation is described in Section II.E. below entitled ''Payment of U.S. ABTC Fee.'' This fee is in addition to the CBP trusted traveler program fee. Upon payment of the U.S. ABTC fee (and any applicable Global Entry, NEXUS or SENTRI fee), CBP will process the U.S. ABTC application concurrently with the CBP trusted traveler membership application. If the applicant is already a member of a CBP trusted traveler program, the applicant will only need to pay the U.S. ABTC fee.

If the applicant is accepted into the U.S. ABTC Program, CBP will update the applicant's GOES account to reflect this and issue the U.S. ABTC by mail to the mailing address that was provided on the application. CBP will mail the U.S. ABTC to any U.S. or international address provided (with the exception of P.O. Boxes).

6. Validity Period

The U.S. ABTC is valid for three years or until the expiration date of the card holder's passport if that is earlier, provided participation is not suspended or revoked by CBP prior to the end of this period. If the card holder's passport expires prior to the general three year validity period then CBP will issue the U.S. ABTC with a shorter validity period that matches the passport expiration date. CBP can revoke membership if the card holder is no longer a member of a CBP trusted traveler program. CBP will notify an individual of any changes to their U.S. ABTC membership by an electronic letter sent through the individual's GOES account. The letter will explain the reason(s) for the change.

Each U.S. ABTC holder may apply to renew participation prior to the close of the validity period. In accordance with the APEC Act, DHS will not issue any new U.S. ABTCs or renew any U.S. ABTCs after September 30, 2018. In order to renew, the participant must submit a new U.S. ABTC application, pay the U.S. ABTC fee and meet all the eligibility criteria including maintaining active membership in a CBP trusted traveler program. If a U.S. ABTC holder does not renew his or her U.S. ABTC or is no longer eligible for the U.S. ABTC, this does not affect his or her membership in a CBP trusted traveler program. That person would still be considered a full participant in the CBP trusted traveler program for the remaining period of membership. However, as noted above, active membership in the CBP trusted traveler program is necessary for the entire duration of the U.S. ABTC. Membership in a CBP trusted traveler program may be suspended or revoked at any time if the individual is not compliant with the program requirements.[14]

7. Expedited Entry Privileges

U.S. ABTCs will enable access to a dedicated fast-track lane for expedited immigration processing at airports in foreign APEC member economies. As a member of a U.S. CBP trusted traveler program, U.S. ABTC holders may also utilize the Global Entry kiosks at participating airports upon their return to the United States.

8. Entry Requirements

U.S. ABTC holders must present any travel or identity documentation, such as a passport and visa, required by the foreign APEC members. If a U.S. ABTC holder does not conform to the visa, passport or entry requirements mandated by the foreign economy, the card holder may be directed to another lane or be refused entry. It is not expected that foreign APEC members will recognize the U.S. ABTC in lieu of a visa. Therefore, U.S. ABTC holders are still required to obtain visas (where applicable) to visit the 20 foreign APEC members. It is suggested that U.S. ABTC holders check the travel requirements of the APEC member economy to which they are traveling immediately before their travel.

9. Denial, Removal and Suspension

This rule sets forth the notification procedures for an applicant who is denied a U.S. ABTC, and lists the reasons that a U.S. ABTC holder may be suspended or removed from the U.S. ABTC Program. If a U.S. ABTC

[14] See 8 CFR 235.12 for the specific suspension or revocation grounds.

applicant is denied a U.S. ABTC, CBP will notify the applicant of the denial, the reasons for the denial and provide instructions on the redress methods. Membership in the U.S. ABTC Program may be suspended or revoked at any time if the individual is not compliant with the program requirements. Under this rule, a U.S. ABTC holder may be suspended or removed from the program if he or she provided false information in the application and/or during the application process, failed to follow the terms, conditions, and requirements of the program, or has been arrested or convicted of a crime or otherwise no longer meets the program eligibility criteria.

A U.S. ABTC applicant or U.S. ABTC holder whose application is denied or whose card is suspended or revoked will not receive a refund, in whole or in part, of the U.S. ABTC fee.

10. Redress Procedures

An applicant whose application is denied or whose participation is suspended or terminated has two possible methods for redress. The applicant may contest the termination, suspension or denial by writing to the enrollment center where the applicant's CBP trusted traveler program interview was conducted. If the U.S. ABTC applicant is already a member of a CBP trusted traveler program and wishes to contest the termination, suspension or denial of the U.S. ABTC, the applicant may write to the enrollment center where the applicant provided their signature for the U.S. ABTC. The second method of redress for any applicant is the CBP Trusted Traveler Ombudsman. The regulation below describes these procedures in detail. These processes do not create or confer any legal right, privilege or benefit, and are wholly discretionary on the part of CBP. These same redress procedures are available for the CBP trusted traveler programs.[15]

11. Duration of U.S. ABTC Program

The APEC Act authorizes the Secretary to issue U.S. ABTCs only through September 30, 2018. Unless the law is amended to extend that date, DHS will not issue any new U.S. ABTCs or renew any U.S. ABTCs after September 30, 2018. More information about the deadlines for applying to the U.S. ABTC Program before DHS ceases the issuance of new U.S. ABTCs or renewals of U.S. ABTCs will be available at *http://www.globalentry.gov.* U.S. ABTC holders will retain their membership in the U.S. ABTC Program for the full validity period (even if that is after September 30, 2018) unless the membership is suspended or revoked. Unless the law is amended to extend the duration of the U.S. ABTC Program, all U.S. ABTCs will expire by September 29, 2021.

D. Payment of U.S. ABTC Fee

The APEC Act authorizes DHS to collect a fee for the issuance of a U.S. ABTC that is sufficient to offset the direct and indirect costs of the program including the costs associated with establishing the program. CBP conducted a fee study to determine the yearly costs of the program and the cost to establish the program for all relevant parties.[16] As described in the fee study, pursuant to an arrangement with Canada, DHS will also be printing Canadian ABTCs for Canadian citizens and will be collecting (and retaining) the fee from those applicants. The fee study is based on the estimated number of U.S. and Canadian ABTC applicants. U.S. and Canadian citizens will pay the same fee for an ABTC. The Canadian ABTC fee will be collected and retained by the United States to cover the direct and indirect costs associated with the required information technology infrastructure, including the printing of the cards. This arrangement lowers the fee for both U.S. and Canadian ABTC applicants compared to what the fee would be if each country had to build its own information technology infrastructure and print its own cards. A Canadian citizen must be a member of NEXUS and apply for a Canadian ABTC through CBP's GOES Web site.[17]

DHS has determined that a fee of $70 is necessary to recover the costs associated with the U.S. ABTC Program. As shown in Table 1 below, these costs include the issuance of ABTC cards and the information technology infrastructure costs, initial and recurring, required to run the U.S. ABTC Program.

TABLE 1

	ABTC Enrollee costs
IT costs	$61
ABTC card cost	9
Total Cost	70

CBP is amending 8 CFR 103.7(b)(1)(ii)(N) to reflect this fee. As described in 8 CFR 235.13(c)(5), this non-refundable fee is paid to CBP at the time of the application through the Federal Government's on-line payment system, Pay.gov or other CBP-approved process. The current system is Pay.gov. Pay.gov is a system by which parties can make secure electronic payments to many Federal Government agencies.

III. Statutory and Regulatory Requirements

A. Administrative Procedure Act

The Administrative Procedure Act (APA) generally requires agencies to publish a notice of proposed rulemaking in the **Federal Register** (5 U.S.C. 553(b)) and provide interested persons the opportunity to submit comments (5 U.S.C. 553(c)). DHS believes that this interim final rule is excluded from APA rulemaking requirements as a foreign affairs function of the United States because it advances the President's foreign policy goal of facilitating business travel within the APEC region and allows the United States to fulfill its obligations under the multilateral APEC agreement. This interim final rule is being implemented pursuant to the current APEC Framework,[18] which the United States and all twenty other APEC members agreed upon in order to simplify entry procedures within the APEC region. The creation of the U.S. ABTC Program facilitates U.S. participation in this multi-lateral international agreement.

In addition, pursuant to 5 U.S.C. 553(b)(B), a notice of proposed rulemaking is not required if the agency finds good cause to implement the rule without prior public notice and comment. For the reasons specified below, DHS also has determined that there is good cause to publish this rule without prior public notice and comment procedures.

This rule is a nondiscretionary action as the authorizing statute and the APEC Framework set forth most of the relevant criteria and considerations for the issuance of the U.S. ABTC and provide DHS with little discretion about the U.S. ABTC Program. The authorizing statute specifies eligibility requirements, such as requiring that an applicant must be

[15] See 8 CFR 235.12. See also *http://www.globalentry.gov/nexus.html,* and *http://www.globalentry.gov/sentri.html.* Another redress procedure, DHS Traveler Redress Inquiry Program (DHS TRIP), is available for Global Entry. This method of redress is not available for the U.S. ABTC Program.

[16] This fee study entitled ''Asia-Pacific Economic Cooperation Business Travel Card Fee Study'' is posted on the docket as supplemental materials on *www.regulations.gov.*

[17] Canada will determine whether the Canadian ABTC applicant qualifies for a Canadian ABTC.

[18] APEC Framework, Version 17, agreed to on January 30, 2013.

approved and in good standing in a DHS trusted traveler program, mandates the cost considerations that must be included in the fee determination, and sets forth the sunset provision establishing the duration of the U.S. ABTC Program. The APEC Framework dictates the standards for the card, the remaining eligibility requirements, and the validity period. Therefore, DHS had little discretion in determining who would be eligible for the U.S. ABTC, the conditions for use of the U.S. ABTC, the fee, the validity period, the duration of the program or the privileges granted to U.S. ABTC holders. For these reasons, DHS believes that prior notice and public comment procedure would be impracticable, unnecessary, and contrary to the public interest. Although prior notice and comment is not required, DHS is requesting public comments in this interim final rule and will take into account public comments received before issuing a final rule.

B. Executive Order 12866 and Executive Order 13563

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 (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has been designated a ''significant regulatory action'' although not economically significant, under section 3(f) of Executive Order 12866. Accordingly, the Office of Management and Budget has reviewed this rule. CBP has prepared the following analysis to help inform stakeholders of the potential impacts of this interim rule.

1. Synopsis

The interim final rule will establish the U.S. ABTC Program. Pursuant to the authorizing statute, the Secretary of Homeland Security is authorized to set a U.S. ABTC Program fee. The statute mandates that if a fee is established, it must be sufficient to offset the direct and indirect costs associated with running the U.S. ABTC Program, including any costs associated with the establishment of the U.S. ABTC Program. CBP has determined a fee of $70 is necessary to recover the costs of administering the U.S. ABTC Program.[19]

As shown in Table 2, in addition to the U.S. ABTC fee, U.S. ABTC applicants will also experience an opportunity cost associated with obtaining a U.S. ABTC. Because participation in a CBP trusted traveler program is a prerequisite for obtaining a U.S. ABTC, those who are not currently members of such a program will need to concurrently apply for a U.S. ABTC and a CBP trusted traveler program and pay the applicable fees. CBP assumes that those not currently in a trusted traveler program will choose Global Entry because it, like the U.S. ABTC, provides expedited clearance in the air environment. The fee for Global Entry is currently $100. We estimate the opportunity cost to obtain a U.S. ABTC for those who are already members of a CBP trusted traveler program to be $67.00. We estimate the opportunity cost to obtain a U.S. ABTC for those who are not members of a CBP trusted traveler program to be $95.52.

The total cost of obtaining a U.S. ABTC will range from $137 for U.S. ABTC applicants who are currently in a CBP trusted traveler program to $266 for U.S. ABTC applicants who are not currently in a CBP trusted traveler program. We will provide additional detail into these estimates later in the analysis. The U.S. ABTC Program is a voluntary program that enables card holders access to fast-track immigration lanes at airports in the 20 foreign APEC member economies. CBP estimates that U.S. ABTC holders will experience a time savings of approximately 43 minutes when clearing foreign immigration services using the fast-track immigration lanes. As the U.S. ABTC program is voluntary, the perceived benefits of reduced wait time have to equal or exceed the cost of the program over three years (validity period of the U.S. ABTC) for potential enrollees to determine whether the program is worthwhile. As shown in Table 2, the total cost of obtaining a U.S. ABTC will range from $137 for U.S. ABTC applicants who are currently in a CBP trusted traveler program to $266 for U.S. ABTC applicants who are not currently in a CBP trusted traveler program. As discussed below in further detail, CBP estimates that a U.S ABTC applicant who is currently enrolled in a CBP trusted traveler program will need to take a minimum of 4 trips for the benefits of the U.S. ABTC Program to exceed the cost associated with joining the program. Additionally, CBP estimates that a U.S. ABTC applicant who is not currently a CBP trusted traveler member will need to take a minimum of 6 round trips between the United States and an APEC economy in order for the benefits of the U.S. ABTC Program to exceed the cost associated with joining the program.

TABLE 2—TOTAL COST BY APPLICANT TYPE

Applicant type	Cost category	Initial costs	Renewal costs
U.S. ABTC Applicants not Currently in a CBP Trusted Traveler Program.	U.S. ABTC Fee	$70	$70
	Global Entry Fee*	$100	$0
	U.S. ABTC and Global Entry Opportunity Cost †.	$95.52 (1.67 hrs)	$66.92 (1.17 hr)
	Total (rounded to nearest $1)	$266	$137
U.S. ABTC Applicants Currently in a CBP Trusted Traveler Program.	U.S. ABTC Fee	$70	$70
	Global Entry Fee*	n/a	n/a

[19] CBP performed a fee study to determine the yearly costs of the program and the cost to establish the program for all relevant parties. This fee study entitled ''Asia-Pacific Economic Cooperation Business Travel Card Fee Study'' is posted on the docket as supplemental materials on *www.regulations.gov.*

TABLE 2—TOTAL COST BY APPLICANT TYPE—Continued

Applicant type	Cost category	Initial costs	Renewal costs
	U.S. ABTC Opportunity Cost †	$66.92 (1.17 hr)	$66.92 (1.17 hr)
	Total (rounded to nearest $1)	$137	$137

* CBP anticipates that those U.S. ABTC applicants who must choose a CBP trusted traveler program when applying for the U.S. ABTC will choose to join Global Entry because, like the U.S. ABTC, Global Entry provides expedited clearance in the air environment.

† This value is based off the Department of Transportation's guidance regarding the valuation of travel time for business travelers. ''The Value of Travel Time Savings: Departmental Guidance for Conducting Economic Evaluations Revision 2. (See Table 4. Available at *http://www.dot.gov/sites/dot.dev/files/docs/vot_guidance_092811c.pdf.*)

Note: There are two categories of U.S. ABTC applicants; those who are already part of a CBP trusted traveler program and those who are not. CBP does not account for the cost of joining a CBP trusted traveler program for those applicants who are already current members of a CBP trusted traveler program. These applicants have already, independent of any decision to join the U.S. ABTC Program, determined that the benefits of a CBP trusted traveler program outweigh the costs associated with the program they have chosen to join.

2. Background

The U.S. ABTC Program is a voluntary program that allows U.S. citizens with U.S. ABTCs to use fast-track immigration lanes at airports in the 20 foreign APEC member economies.[20] In order to be eligible for a U.S. ABTC, a U.S. citizen is required to be a bona fide business person engaged in business in the APEC region or a U.S. Government official actively engaged in APEC business.[21] Additionally, the U.S. ABTC applicant must be a member in good standing of a CBP trusted traveler program or approved for membership in a CBP trusted traveler program during the U.S. ABTC application process. U.S. ABTC applicants who are not already CBP trusted traveler program members, must also apply for membership to a CBP trusted traveler program with their U.S. ABTC application.[22] Although membership in the CBP trusted traveler programs is valid for five years, the U.S. ABTC is only valid for three years or until the expiration date of the card holder's passport if that is earlier. Similar to the CBP trusted traveler programs, a U.S. ABTC holder will be required to renew his or her membership, prior to expiration, in order to continue receiving the ability to use the APEC fast-track immigration lanes.

3. U.S. ABTC Applicant Categories

There are two categories of U.S. ABTC applicants who we discuss separately in this analysis: those who are already part of a CBP trusted traveler program and those who are not. This is necessary because those applicants who are not already part of a CBP trusted traveler program will bear the additional opportunity cost and fee associated with applying for a CBP trusted traveler program in order to be eligible for a U.S. ABTC.

a. U.S ABTC Applicants Who Are Currently Members of a CBP Trusted Traveler Program

If a U.S. ABTC applicant is already a member of a CBP trusted traveler program, the applicant will have to apply for a U.S. ABTC by self-certifying, via the GOES Web site, that he or she is an existing member in good standing in a CBP trusted traveler program, that he or she is either a bona fide U.S. business person engaged in business in the APEC region or a U.S. Government official actively engaged in APEC business and that he or she is not a professional athlete, news correspondent, entertainer, musician, artist or person engaged in a similar occupation. In addition to the self-certification, the U.S. ABTC applicant will also be required to schedule an appointment at an enrollment center in order for his or her signature to be digitally captured for the U.S. ABTC. CBP estimates that U.S. ABTC applicants will experience an opportunity cost of 10 minutes to complete the U.S. ABTC self-certification, schedule an appointment at an enrollment center, and have their signature digitally captured. As described in the Global Entry final rule,[23] CBP estimated Global Entry applicants would experience an opportunity cost of one hour in to order to travel to an enrollment center for an interview and return home. CBP anticipates that U.S. ABTC applicants who are current members of a CBP trusted traveler program will experience a similar opportunity cost to travel to and from an enrollment center as do Global Entry applicants. For the purposes of this rule, CBP does not account for the cost of joining a CBP trusted traveler program for those applicants that are already current members of a CBP trusted traveler program. These applicants have already, independent of any decision to join the U.S. ABTC Program, determined that the benefits of a CBP trusted traveler program outweigh the costs associated with the program they have chosen to join. To account for these costs and benefits in this rule would double count those costs and benefits as those are the impacts of the trusted traveler program, not of the U.S. ABTC Program.

[20] At this time, U.S. citizens will not realize all the benefits a citizen from a fully participating member will realize. For a description of the benefits available to a citizen of a fully participating member, please see above for section II. B, ''The APEC Business Travel Card Program.''

[21] The ABTC may only be used by a bona fide business person engaged in business in the APEC region or a U.S. Government official actively engaged in APEC business. The card holder must be traveling solely for business purposes in the foreign APEC economy and not engaging in paid employment in the foreign APEC economy. ''APEC business'' means U.S. government activities that support the work of APEC. A ''bona fide business person engaged in business in the APEC region'' means a person engaged in the trade of goods, the provision of services or the conduct of investment activities in the APEC region. Professional athletes, news correspondents, entertainers, musicians, artists or persons engaged in similar occupations are not considered to be bona fide business travelers engaged in business in the APEC region.

[22] Applicants must be participants in any of the three qualified CBP trusted traveler programs: Global Entry, SENTRI, and NEXUS. A U.S. ABTC applicant has the choice of either applying for a CBP trusted traveler program first and then separately applying for a U.S. ABTC or concurrently applying for both. We note that both fees are non-refundable, so it is possible that an applicant may choose to apply for the programs separately so that if they are denied membership in a CBP trusted traveler program, they do not need to pay the $70 fee for the U.S. ABTC Program. If an applicant chooses to apply for a CBP trusted traveler program and separately apply for a U.S. ABTC then the applicant will experience an additional opportunity cost of 70 minutes (10 minutes to apply for a U.S. ABTC and one hour to travel to and from an enrollment center). Using the estimated value of time for a business traveler ($57.20), this is a monetized opportunity cost of approximately $66.92. In order for U.S. ABTC applicants to be better off applying separately, they must believe that they have at least a 96 percent chance of being denied membership in a CBP trusted traveler program. The actual denial rate for CBP trusted traveler programs is approximately three percent, according to CBP's Office of Field Operations. Therefore, for the purposes of this analysis, CBP assumes that a U.S. ABTC applicant who is not currently a member of a CBP trusted traveler program will concurrently apply for a CBP trusted traveler program and a U.S. ABTC.

[23] 77 FR 5681, February 6, 2012.

b. U.S ABTC Applicants Who Are Not Currently Members of a CBP Trusted Traveler Program

An applicant who is not already a member of a CBP trusted traveler program will be required to apply for a U.S. ABTC and a CBP trusted traveler program and self-certify that he or she has submitted an application to a CBP trusted traveler program, that he or she is either a bona fide U.S. business person engaged in business in the APEC region or a U.S. Government official actively engaged in APEC business and that he or she is not a professional athlete, news correspondent, entertainer, musician, artist or person engaged in a similar occupation. Because these applicants would not have joined a CBP trusted traveler program if not for the U.S. ABTC Program, we include the costs and benefits of joining these programs in this analysis.

CBP anticipates that those U.S. ABTC applicants who must choose a CBP trusted traveler program when applying for the ABTC will choose to join Global Entry because, like the U.S. ABTC, Global Entry provides expedited clearance in the air environment. As described in the Global Entry final rule, CBP estimates a Global Entry applicant will experience an opportunity cost of 40 minutes in order to complete the Global Entry application in GOES.[24] When concurrently applying for a U.S. ABTC and Global Entry, CBP anticipates the U.S. ABTC applicant will be able to complete the Global Entry application and the U.S. ABTC self-certification, and have their signature digitally captured in the 40 minutes estimated for the Global Entry application.[25] In addition to the application and self-certification in GOES, the U.S. ABTC applicant concurrently applying for a U.S. ABTC and Global Entry will be required to schedule an appointment at an enrollment center to receive an interview for Global Entry and have his or her signature digitally captured for a U.S. ABTC. As described in the Global Entry final rule, CBP estimated Global Entry applicants would experience an opportunity cost of one hour in order to travel to an enrollment center for an interview and return home.[26]

4. Number of U.S. ABTC Applicants

The National Center for Asia-Pacific Economic Cooperation (NCAPEC)[27] estimates that 10,500 to 15,000 U.S. citizens will enroll in the U.S. ABTC Program within the first three years of the program. Using the NCAPEC estimate, CBP estimates that 12,750, or the average of the lower and upper bound NCAPEC estimate, will enroll in the U.S. ABTC Program within the first three years of the program starting.[28] CBP seeks comment on this estimate.

CBP subject matter experts anticipate that most U.S. ABTC applicants will apply for a U.S. ABTC in the first year and that applications will gradually diminish over the following two years. As such, CBP has weighted each year's U.S. ABTC applicants using the sum-of-years' digits method. Typically used for the depreciation of assets, this weighting method provides an efficient and unbiased method to gradually diminish projected new ABTC enrollees over the first three operating years of the U.S. ABTC Program, to total 12,750 U.S. enrollments over the three year period. Furthermore, CBP estimates that each initial U.S. ABTC enrollment will be renewed upon the expiration of its three year validation period. It is possible, however, that the initial enrollee will change to a job function that does not require conducting APEC business.[29] In these cases, CBP assumes that the individual's replacement in that position will enroll in the U.S. ABTC Program, in lieu of the original enrollee, in order to benefit from the expedited immigration process while visiting APEC member economies. Table 3 presents our projected ABTC enrollments during the period of analysis. For simplicity of the analysis, CBP counts both the original U.S. ABTC holder who renews and any replacement applicants, if applicable, as a renewal in Table 3. For the purposes of this analysis, we will assume CBP starts processing U.S. ABTC enrollments in Fiscal Year (FY) 2013 and no new U.S. ABTCs will be issued after the end of FY 2018. Enrollments are not forecasted further because the statute authorizing the U.S. ABTC expires in FY 2018 unless Congress authorizes anextension.

TABLE 3

Fiscal Year	Projected U.S. ABTC enrollments[30]		
	Initial	Renewals	Total
2013	6,375		6,375
2014	4,250		4,250
2015	2,125		2,125
2016		6,375	6,375
2017		4,250	4,250
2018		2,125	2,125
Total	12,750	12,750	25,500

As discussed above, U.S. ABTC applicants will either be current members of a CBP trusted traveler program or will be required to concurrently apply for a U.S. ABTC and a CBP trusted traveler program. CBP subject matter experts anticipate that half of the U.S. ABTC applicants will not be current members of a CBP trusted traveler program. In an effort to mitigate the possibility of over- or under-estimating the number of U.S. ABTC

[24] 77 FR 5681 (Feb. 6, 2012).

[25] As described above, the self-certification only entails certifying in GOES that the U.S. ABTC applicant is an existing member in good standing in a CBP trusted traveler program or that he or she has submitted an application to a CBP trusted traveler program, that he or she is either a bona fide U.S. business person engaged in business in the APEC region or a U.S. Government official actively engaged in APEC business and that he or she is not a professional athlete, news correspondent, entertainer, musician, artist or person engaged in a similar occupation.

[26] 77 FR 5681 (Feb. 6, 2012).

[27] NCAPEC is a U.S. business association focused on facilitating the private sector input into the APEC process.

[28] *See http://csis.org/publication/why-us-approval-apec-business-travel-card-matters.*

[29] Thus, this enrollee would no longer be eligible for an ABTC.

[30] Although the accompanying U.S. ABTC Fee Study includes an additional 5,000 Canadian enrollments for whom CBP will provide ABTCs, as these enrollees are not members of the U.S. ABTC Program and CBP is reimbursed for the costs of processing their applications, we exclude them from this analysis.

applicants required to concurrently apply to a CBP trusted traveler program, however, CBP has provided a sensitivity analysis in Table 4 reflecting varying percentages of U.S. ABTC applicants who are not current members of a CBP trusted traveler program.

TABLE 4

Fiscal year	Initial projected ABTC enrollments from Table 3	Percent of projected ABTC enrollees not currently in a Trusted Traveler Program [31]		
		Low 25%	Primary 50%	High 75%
2013	6,375	1,594	3,188	4,781
2014	4,250	1,063	2,125	3,188
2015	2,125	531	1,063	1,594
2016				
2017				
2018				
Total	12,750	3,188	6,376	9,563

5. Cost

CBP has determined that a fee of $70 is necessary to recover the costs associated with the U.S. ABTC Program. These costs include the cost to issue the U.S. ABTCs and the information technology infrastructure costs, initial and recurring, required to run the U.S. ABTC Program.[32]

In addition to the U.S. ABTC fee, U.S. ABTC applicants will also experience an opportunity cost associated with obtaining a U.S. ABTC. As discussed above, CBP estimates U.S. ABTC applicants who are currently members of a CBP trusted traveler program will experience a one hour and 10 minute opportunity cost while U.S. ABTC applicants who are not members of a CBP trusted traveler program will experience a one hour and 40 minute opportunity cost. Additionally, U.S. ABTC applicants who are not members of a CBP trusted traveler program will also be required to pay the $100 fee associated with the Global Entry program.[33]

The Department of Transportation's (DOT) guidance regarding the valuation of travel time for air passengers estimates a business traveler's value to be $57.20 per hour.[34] Using this estimate, the opportunity cost and fee described above, CBP estimates that it will cost a U.S. ABTC applicant who is currently a CBP trusted traveler program member approximately $137 to join the U.S. ABTC program ($57.20 × 1.17 hours = $66.92; $66.92 + $70 U.S. ABTC fee = $136.92).[35] For U.S. ABTC applicants who are not currently members of a CBP trusted traveler program, CBP estimates that it will cost approximately $266 to join the U.S. ABTC Program ($57.20 × 1.67 hours = $95.52; $95.52 + $100 Global Entry program fee + $70 U.S. ABTC fee = $265.52).[36]

Due to the different membership periods for the CBP trusted traveler programs (five years) and the U.S. ABTC (three years), CBP notes that U.S. ABTC applicants who join a CBP trusted traveler program exclusively for the ability to obtain a U.S. ABTC and have renewed their U.S. ABTC (for a total of 6 years membership) will also incur the opportunity cost and fee associated with the Global Entry program when their Global Entry membership expires prior to their U.S. ABTC expiration date. CBP estimates that it will cost approximately $196 to renew a Global Entry membership in order to maintain a U.S. ABTC ($57.20 × 1.67 hours = $95.52; $95.52 + $100 Global Entry program fee = $195.52 The total present value cost of this rule, as shown in Table 5 below, will range from approximately $3.7 million to $5.3 million over a six-year period of analysis. The total annualized cost of this rule, using either a seven-percent or three-percent discount rate, will range from $0.7 million to 1.0 million.

[31] Although the accompanying U.S. ABTC Fee Study includes an additional 5,000 Canadian enrollments for whom CBP will provide ABTCs, as these enrollees are not members of the U.S. ABTC Program and CBP is reimbursed for the costs of processing their applications, we exclude them from this analysis.

[32] CBP performed a fee study to determine the yearly costs of the program and the cost to establish the program for all relevant parties. This fee study entitled ''Asia-Pacific Economic Cooperation Business Travel Card Fee Study'' is posted on the docket as supplemental materials on *www.regulations.gov.*

[33] As discussed above, CBP anticipates U.S. ABTC applicants not currently members of a CBP trusted traveler program will join the Global Entry program.

[34] ''*The Value of Travel Time Savings: Departmental Guidance for Conducting Economic Evaluations Revision 2* see Table 4), available at *http://www.dot.gov/sites/dot.dev/files/docs/vot_guidance_092811c.pdf.*

[35] CBP estimates that U.S. ABTC applicants who are currently in a CBP trusted traveler program will experience an opportunity cost of 10 minutes to complete a self-certification, schedule an appointment at an enrollment center, and have their signature digitally captured. Additionally, CBP estimates these applicants will experience an opportunity cost of 60 minutes to travel to and from an enrollment center in order to have their signature digitally captured. In total, CBP estimates U.S. ABTC applicants who are currently members of a CBP trusted traveler program will experience an opportunity cost of 70 minutes, or 1.17 hours (70 minutes ÷ 60 minutes = 1.17 hours).

[36] CBP estimates that U.S. ABTC applicants who are not currently in a CBP trusted traveler program will experience an opportunity cost of 40 minutes in order to complete the Global Entry application and the U.S. ABTC self-certification. Additionally, CBP estimates these applicants will experience an opportunity cost of 60 minutes in order to complete the interview for Global Entry and have their signature digitally captured for their U.S. ABTC. In total, CBP estimates U.S. ABTC applicants who are not currently members of a CBP trusted traveler program will experience an opportunity cost of 100 minutes, or 1.67 hours (100 minutes ÷ 60 minutes = 1.67 hours).

TABLE 5—U.S. ABTC APPLICANTS NOT CURRENTLY IN A CBP TRUSTED TRAVELER PROGRAM

Fiscal year	Projected U.S. ABTC enrollments (A)			U.S. ABTC applicants not currently in a CBP trusted traveler program (B) = (Initial A × Percent)			U.S. ABTC applicants requiring a 5-year global entry renewal (C)			Total Cost (B × $266) + (C × $196)		
	Initial	Renewals	Total	Low 25%	Primary 50%	High 75%	Low 25%	Primary 50%	High 75%	Low 25%	Primary 50%	High 75%
2013	6,375	.....	6,375	1,594	3,188	4,781	.....	.....	.....	$424,004	$848,008	$1,271,746
2014	4,250	.....	4,250	1,063	2,125	3,188	.....	.....	.....	282,758	565,250	848,008
2015	2,125	.....	2,125	531	1,063	1,594	.....	.....	.....	141,246	282,758	424,004
2016	.....	6,375	6,375	.....	.....	.....	.....	.....	.....	.....	.....	.....
2017	.....	4,250	4,250	.....	.....	.....	.....	.....	.....	.....	.....	.....
2018	.....	2,125	2,125	.....	.....	.....	1,594	3,188	4,781	312,424	624,848	937,076
Subtotal	.....	.....	.....	*3,188*	*6,376*	*9,563*	*1,594*	*3,188*	*4,781*	*1,160,432*	*2,320,864*	*3,480,834*

U.S. ABTC APPLICANTS CURRENTLY IN A CBP TRUSTED TRAVELER PROGRAM

Fiscal year	Projected U.S. ABTC enrollments (A)			U.S. ABTC applicants currently in a CBP trusted traveler program (D) = (Total A − B)			U.S. ABTC applicants requiring a 5-year global entry renewal (E)			Total cost (D × $137)		
	Initial	Renewals	Total	Low	Primary	High	Low	Primary	High	Low	Primary	High
2013	6,375	.....	6,375	4,781	3,187	1,594	n/a	n/a	n/a	$654,997	$436,619	$218,378
2014	4,250	.....	4,250	3,187	2,125	1,062	n/a	n/a	n/a	436,619	291,125	145,494
2015	2,125	.....	2,125	1,594	1,062	531	n/a	n/a	n/a	218,378	145,494	72,747
2016	.....	6,375	6,375	6,375	6,375	6,375	n/a	n/a	n/a	873,375	873,375	873,375
2017	.....	4,250	4,250	4,250	4,250	4,250	n/a	n/a	n/a	582,250	582,250	582,250
2018	.....	2,125	2,125	2,125	2,125	2,125	n/a	n/a	n/a	291,125	291,125	291,125
Subtotal	.....	.....	.....	*22,312*	*19,124*	*15,937*	*n/a*	*n/a*	*n/a*	*3,056,744*	*2,619,988*	*2,183,369*
Total	.....	.....	.....	25,500	25,500	25,500	1,594	3,188	4,781	4,217,176	4,940,852	5,664,203
7% present value (2013 dollars)				.....	.....	.....	.....	.....	.....	3,652,877	4,269,235	4,885,332
3% present value (2013 dollars)				.....	.....	.....	.....	.....	.....	3,953,615	4,626,437	5,298,965
7% annualized				.....	.....	.....	.....	.....	.....	716,223	837,073	957,871
3% annualized				.....	.....	.....	.....	.....	.....	708,570	829,154	949,685

6. Benefits

As stated earlier, the U.S. ABTC Program will enable card holders access to fast-track immigration lanes at airports in the 20 foreign APEC member economies. Although the ABTC program is new for U.S. citizens, it is a well-established program for the other APEC member economies. In an effort to quantify the benefits of the ABTC, APEC commissioned the report ''Reducing Business Travel Costs: The Success of APEC's Business Mobility Initiatives'' (APEC Report).[37] The APEC Report quantified seven key performance indicators, one of which quantifies the time savings an ABTC holder receives by using the fast-track immigration lanes. As shown in Table 6 below, the time savings each member's ABTC holders receive can vary greatly. CBP believes the weighted average time savings of approximately 43 minutes is an appropriate estimate of the time savings a U.S. ABTC holder will receive when clearing foreign immigration services using the fast-track immigration lanes.

As discussed above, the DOT's guidance regarding the valuation of travel time estimates a business traveler's value to be $57.20 per hour.[38] Using this value and the estimated time savings, CBP estimates each U.S. ABTC holder will save approximately $41 per visit to an APEC member economy (43 minutes ÷ 60 minutes = 0.72 hours; $57.20 × 0.72 hours = $41.18).

TABLE 6—KEY PERFORMANCE INDICATOR 4—TOTAL TIME SAVINGS CLEARING IMMIGRATION AT THE BORDER BY ABTC HOLDERS

Economy	Average time savings/ ABTC holder (minutes)	ABTC Holders (2011)	Total time savings by ABTC holders (minutes)
Australia	46.52	24,286	1,129,713
Brunei Darussalam	32.81	43	1,411
Chile	49.33	416	20,520
China	38.74	3,895	150,882
Hong Kong China	26.28	10,659	280,137
Indonesia	60.2	1,495	90,003
Japan	51.49	2,541	130,840
South Korea	43.26	8,422	364,351
Malaysia	66.19	4,140	274,043
Mexico	103.51	185	19,149
New Zealand	48.11	6,538	314,527
Papua New Guinea	27.03	22	595
Peru	40.78	1,277	52,082
Philippines	45.22	476	21,525
Singapore	64.15	8,137	522,013
Thailand	28.94	5,564	161,006
Vietnam	24.29	8,730	212,011
Total	n/a	86,826	3,744,808
Weighted Average	43.13	n/a	n/a

Source: Asia-Pacific Economic Cooperation. Reducing Business Travel Costs: The Success of APEC's Business Mobility Initiatives (2011). *http://publications.apec.org/publication-detail.php?pub_id=1214.*

7. Net Benefits

Because participation in the U.S. ABTC Program is voluntary, the perceived benefits of reduced wait time have to equal or exceed the cost of the program over three years for potential enrollees to determine whether or not the program is worthwhile. As discussed above, CBP estimates that each U.S. ABTC holder will save approximately $41 per trip by using the fast-track immigration lanes in foreign APEC member economies. Although CBP is unable to estimate the number of trips each individual U.S. ABTC holder will take to an APEC member economy, based on the estimated savings per trip, as described above, CBP can estimate the minimum number of trips a U.S. ABTC holder will have to take over the three year U.S. ABTC validity period for the benefits of the U.S. ABTC to equal or exceed the costs of obtaining a U.S. ABTC. CBP notes that this is a voluntary program and that individuals are likely to participate only if they expect to travel enough for the savings to offset the cost of obtaining a U.S. ABTC.

CBP estimates a U.S ABTC applicant who is currently enrolled in a CBP trusted traveler program will need to take a minimum of 4 trips, over three years, in order for the benefits of the U.S. ABTC Program to exceed the cost associated with joining the program ($137 U.S. ABTC opportunity cost and fee ÷ $41 saving per trip = 3.3 trips).

In addition to the $41 savings per trip to an APEC member economy, CBP estimates a U.S. ABTC applicant who is not currently a CBP trusted traveler member will also save an additional $7 by using a Global Entry kiosk for expedited CBP clearance upon returning to the United States from an APEC economy (7 minutes ÷ 60 minutes = 0.12 hours; 0.12 hours x $57.20 = $6.86).[39] CBP estimates a U.S. ABTC applicant who is not currently a CBP trusted traveler member will need to take a minimum of 6 round trips between the United States and an APEC member economy, over three years, in order for the benefits of the U.S. ABTC Program to exceed the cost associated with joining the program ($41 savings + $7 savings = $48 savings; $266 U.S. ABTC and Global Entry opportunity cost and fees ÷ $48 savings = 5.5).

C. The Regulatory Flexibility Act

This section examines the impact of the rule on small entities as required by

[37] *http://publications.apec.org/publication-detail.php?pub_id=1214.*

[38] ''*The Value of Travel Time Savings: Departmental Guidance for Conducting Economic Evaluations Revision 2.* (See Table 4. Available at *http://ostpxweb.dot.gov/policy/reports/vot_guidance_092811c.pdf).*

[39] 77 FR 5681 (Feb. 6, 2012).

the Regulatory Flexibility Act (5 U.S.C. 601 *et. seq.*), as amended by the Small Business Regulatory Enforcement and Fairness Act of 1996. A small entity may be a small business (defined as any independently owned and operated business not dominant in its field that qualifies as a small business per the Small Business Act); a small not-for-profit organization; or a small governmental jurisdiction (locality with fewer than 50,000 people).

Although this rule regulates people and not businesses, a U.S. citizen is required to be either a bona fide U.S. business person engaged in business in the APEC region or a U.S. Government official actively engaged in APEC business in order to qualify for a U.S. ABTC.[40] Therefore, CBP has considered the impact of this rule on small entities.

The U.S. ABTC Program is voluntary and has a cost of approximately $137 if a U.S. ABTC applicant is a current member of a CBP trusted traveler program or approximately $266 if a U.S. ABTC applicant must concurrently apply for a U.S. ABTC and a CBP trusted traveler program. While the U.S. ABTC applicant will bear the cost associated with obtaining a U.S. ABTC, a business may voluntarily reimburse the applicant for the fee and his or her opportunity cost. CBP cannot estimate the number of small entities that will voluntarily reimburse its employees. CBP recognizes, however, that it is possible that a substantial number of small entities will be impacted by this regulation. However, CBP does not believe a cost of either $137 or $266, depending on whether a U.S. ABTC applicant is currently enrolled in a CBP trusted traveler program, constitutes a significant economic impact. As discussed above, a U.S. ABTC holder will save approximately 43 minutes, or approximately $41, per trip in opportunity costs which can be put to productive APEC business related use. Additionally, after approximately 4 or 6 trips to an APEC member economy, the benefits of an ABTC will exceed the full cost of obtaining a U.S. ABTC (fee + opportunity cost). CBP also notes that a one-time expense of $137 or $266, depending on whether the U.S. ABTC applicant is currently enrolled in a CBP trusted traveler program, is a fraction of the cost of frequent trans-Pacific travel.

Thus, CBP certifies this regulation will not have a significant economic impact on a substantial number of small entities.

D. 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 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.

E. Executive Order 13132

The rule will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

F. Paperwork Reduction Act

The collections of information in this document are under review by OMB in accordance with the requirements of the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1651–0121. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB. The collections of information in these regulations are contained in Title 8, Part 235 of the CFR. CBP is revising this collection by adding new data elements for the U.S. ABTC Program to GOES. This information is required in order for respondents to voluntarily apply for this program. CBP will use this information to verify eligibility in this program. These proposed revisions to OMB clearance 1651–0121 for the U.S. ABTC Program application will result in the following estimated increase to the burden hours[41]:

Estimated number of respondents annually: 2,125.

Estimated average annual burden per respondent: 10 minutes.

Estimated total annual reporting burden: 361 hours.

CBP also anticipates an increase in the number of Global Entry applications as a result of the U.S. ABTC Program. This will result in the following estimated increase to the burden hours:

Global Entry Applications:

Estimated number of respondents annually: 2,125.

Estimated average annual burden per respondent: 40 minutes.

Estimated total annual reporting burden: 1,424 hours.

Comments concerning the collections of information should be directed to the Office of Management and Budget, Attention: Desk Officer for U.S. Customs and Border Protection, Department of Homeland Security, Office of Information and Regulatory Affairs, Washington, DC 20503. A copy should also be sent to the Border Security Regulations Branch, Regulations and Rulings, U.S. Customs and Border Protection, 90 K Street NE., 10th floor, Washington, DC 20229–1177.

G. Privacy

DHS will ensure that all Privacy Act requirements and policies are adhered to in the implementation of this rule, and will be updating the Privacy Act Impact Assessment and System of Records Notice, which will fully outline processes to ensure compliance with Privacy Act protections.

H. Signing Authority

The signing authority for this document falls under 19 CFR 0.2(a). Accordingly, this interim final rule is signed by the Secretary of Homeland Security.

IV. Authority

This regulation is issued under the authority of 5 U.S.C. 301, 6 U.S.C. 112, 203 and 211, 8 U.S.C. 1103 and 19 U.S.C. 2, 66 and 1624, and Public Law 112–54.

List of Subjects

8 CFR Part 103

Administrative practice and procedure, Authority delegations

[40] The ABTC may only be used by a bona fide business person engaged in business in the APEC region or a U.S. Government official actively engaged in APEC business. The card holder must be traveling solely for business purposes in the foreign APEC economy and not engaging in paid employment in the foreign APEC economy. ''APEC business'' means U.S. government activities that support the work of APEC. A ''bona fide business person engaged in business in the APEC region'' means a person engaged in the trade of goods, the provision of services or the conduct of investment activities in the APEC region. Professional athletes, news correspondents, entertainers, musicians, artists or persons engaged in similar occupations are not considered to be bona fide business travelers engaged in business in the APEC region.

[41] We estimate that a total 4,250 applicants will enroll in the U.S. ABTC Program each year. However, as described in the 12866 and 13563 section above, half of these applicants will apply concurrently with a CBP trusted traveler program. Since this is done by simply checking the U.S. ABTC box and completing the self-certification there is no additional time burden to apply for the U.S. ABTC for these applicants. As such, we include only the 2,125 applicants who apply solely for a U.S. ABTC here. The time burden for those who apply concurrently for a U.S. ABTC and a CBP trusted traveler program is captured in the 40 minutes for the additional 2,125 Global Entry applicants.

(Government agencies), Freedom of information, Immigration, Privacy, Reporting and recordkeeping requirements, Surety bonds.

8 CFR Part 235

Administrative practice and procedure, Aliens, Immigration, Reporting and recordkeeping requirements.

Amendments to Regulations

For the reasons set forth in this document, 8 CFR parts 103 and 235 are amended as follows:

PART 103—IMMIGRATION BENEFITS; BIOMETRIC REQUIREMENTS; AVAILABILITY OF RECORDS

■ 1. The authority citation for part 103 is revised to read as follows:

Authority: 5 U.S.C. 301, 552, 552a; 8 U.S.C. 1101, 1103, 1304, 1356, 1365b; 31 U.S.C. 9701; Public Law 107–296, 116 Stat. 2135 (6 U.S.C. 1 *et seq.*); E.O. 12356, 47 FR 14874, 15557, 3 CFR, 1982 Comp., p.166; 8 CFR part 2; Pub. L. 112–54.

■ 2. In § 103.7, paragraph (b)(1)(ii)(N) is added to read as follows:

§ 103.7 Fees.

* * * * *

(b) * * *

(1) * * *

(ii) * * *

(N) *U.S. Asia-Pacific Economic Cooperation (APEC) Business Travel Card.* For filing an application for the card—$70.

* * * * *

PART 235—INSPECTION OF PERSONS APPLYING FOR ADMISSION

■ 3. The authority citation for part 235 is revised to read as follows:

Authority: 8 U.S.C. 1101 and note, 1103, 1183, 1185 (pursuant to E.O. 13323, 69 FR 241, 3 CFR, 2004 Comp., p.278), 1201, 1224, 1225, 1226, 1228, 1365a note, 1365b, 1379, 1731–32; Title VII of Public Law 110–229; 8 U.S.C. 1185 note (section 7209 of Pub. L. 108–458); Pub. L. 112–54.

■ 4. A new § 235.13 is added to read as follows:

§ 235.13 U.S. Asia-Pacific Economic Cooperation Business Travel Card Program.

(a) *Description.* The U.S. Asia-Pacific Economic Cooperation (APEC) Business Travel Card Program is a voluntary program designed to facilitate travel for bona fide U.S. business persons engaged in business in the APEC region and U.S. government officials actively engaged in APEC business within the APEC region. Participants will receive a U.S. APEC Business Travel Card that will enable them access to fast-track immigration lanes at participating airports in foreign APEC member economies. In order to obtain a U.S. APEC Business Travel Card, an individual must meet the eligibility requirements specified in this section, apply in advance, pay any requisite fee and be approved as a card holder. The APEC member economies are identified at *http://www.apec.org.*

(b) *Program eligibility criteria*—(1) *Eligible individuals.* An individual is eligible for the U.S. APEC Business Travel Card if he or she is:

(i) A U.S. citizen;

(ii) An existing member in good standing of a CBP trusted traveler program or approved for membership in a CBP trusted traveler program during the application process described in paragraph (c) of this section; and

(iii) A bona fide U.S. business person engaged in business in the APEC region or U.S. Government official actively engaged in APEC business.

(A) ''APEC business'' means U.S. government activities that support the work of APEC.

(B) A ''bona fide business person engaged in business in the APEC region'' means a person engaged in the trade of goods, the provision of services, or the conduct of investment activities in the APEC region. Professional athletes, news correspondents, entertainers, musicians, artists or persons engaged in similar occupations are not considered to be bona fide business persons engaged in business in the APEC region.

(2) *Conditions regarding the use of the U.S. APEC Business Travel Card.* (i) The U.S. APEC Business Travel Card is not transferable and may be used only by the U.S. APEC Business Travel Card holder and not by anyone else including the card holder's spouse or child.

(ii) The U.S. APEC Business Travel Card can be used only if the card holder is traveling solely for business purposes to a foreign APEC member economy and is not engaging in paid employment in the foreign APEC member economy.

(c) *Application process.* (1) Each applicant must complete and submit an application electronically through the Global Entry Enrollment System (GOES) or other applicable process as determined by CBP. The application and application instructions for the card are available as an add-on to the CBP trusted traveler application at *www.globalentry.gov.*

(2) Each applicant must certify that he or she is an existing member in good standing in a CBP trusted traveler program or that he or she has submitted an application to a CBP trusted traveler program; that he or she is a bona fide U.S. business person engaged in business in the APEC region or U.S. Government official actively engaged in APEC business; and, that he or she is not a professional athlete, news correspondent, entertainer, musician, artist or person engaged in a similar occupation.

(3) Each applicant must provide his or her signature so that the signature will appear on the face of the card.

(4) If the applicant is not a member of a CBP trusted traveler program, the applicant must concurrently apply for membership in a CBP trusted traveler program and be approved for such membership. Applicants for a CBP trusted traveler program must have an in-person interview, undergo a vetting process and pay the relevant CBP trusted traveler fee. Active membership in a CBP trusted traveler program is necessary for the entire duration of the U.S. APEC Business Travel Card. If membership in the CBP trusted traveler program is set to lapse before the U.S. APEC Business Travel Card expires, the individual must renew his or her CBP trusted traveler membership prior to its expiration date in order to retain membership in the U.S. APEC Business Travel Card Program.

(5) Each applicant must pay a non-refundable fee in the amount set forth at 8 CFR 103.7(b)(1)(ii)(N) for ''U.S. Asia-Pacific Economic Cooperation (APEC) Business Travel Card'' at the time of application. The fee is to be paid to CBP at the time of application through the Federal Government's on-line payment system, Pay.gov or other CBP-approved process.

(6) The U.S. APEC Business Travel Card is valid for a period of 3 years or until the expiration date of the card holder's passport if that is earlier, provided that membership is not suspended or terminated by CBP prior to the end of this period. CBP can terminate use of the U.S. APEC Business Travel Card if the card holder is no longer a member of a CBP trusted traveler program or if the individual is not compliant with the program requirements. Each applicant may apply to renew the card prior to its expiration.

(d) *Expedited entry privileges.* The U.S. APEC Business Travel Card will enable card holders access to a dedicated fast-track lane for expedited immigration processing at participating airports in foreign APEC member economies.

(e) *Entry requirements.* U.S. APEC Business Travel Card holders must present any travel or identity documentation, such as a passport and visa, required by the foreign APEC member economies.

(f) *Denial, removal and suspension.* (1) If an applicant is denied a U.S. APEC Business Travel Card, CBP will notify the applicant of the denial, and the reasons for the denial. CBP will also provide instructions regarding how to proceed if the applicant wishes to seek additional information as to the reason for the denial.

(2) A U.S. APEC Business Travel Card holder may be suspended or removed from the U.S. APEC Business Travel Card Program if CBP determines at its sole discretion that:

(i) The U.S. APEC Business Travel Card holder provided false information in the application and/or during the application process;

(ii) The U.S. APEC Business Travel Card holder failed to follow the terms, conditions and requirements of the program (including continued active membership in a CBP trusted traveler program);

(iii) The U.S. APEC Business Travel Card holder has been arrested or convicted of a crime or otherwise no longer meets the program eligibility criteria; or

(iv) Such action is otherwise necessary.

(3) CBP will notify the U.S. APEC Business Travel Card holder of his or her suspension or removal in writing. Such suspension or removal is effective immediately.

(4) A U.S. APEC Business Travel Card applicant or a U.S. APEC Business Travel Card holder who is denied, suspended, or removed will not receive a refund, in whole or in part, of the application fee.

(g) *Redress.* An individual whose application is denied or whose participation is suspended or terminated has two possible methods of redress. These processes do not create or confer any legal right, privilege, or benefit on the applicant or participant, and are wholly discretionary on the part of CBP. The methods of redress are:

(1) *Enrollment center.* If the applicant or participant applied concurrently for the U.S. APEC Business Travel Card and a CBP trusted traveler program, the applicant or participant may contest his or her denial, suspension or removal by writing to the enrollment center where that individual's CBP trusted traveler program interview was conducted. If the applicant or participant was already a member of a CBP trusted traveler program, the applicant or participant may contest his or her denial, suspension or removal by writing to the enrollment center where that individual's signature was collected for the U.S. APEC Business Travel Card. The enrollment center addresses are available at *www.globalentry.gov, http://www.globalentry.gov/nexus.html* and *http://www.globalentry.gov/sentri.html.* The letter must be received by CBP within 30 calendar days of the date provided as the date of suspension or removal. The individual should write on the envelope ''Redress Request RE: U.S. APEC Business Travel Card.'' The letter should address any facts or conduct listed in the notification from CBP as contributing to the denial, suspension or removal and why the applicant or participant believes the reason for the action is invalid. If the applicant or participant believes that the denial, suspension or removal was based upon inaccurate information, the individual should also include any reasonably available supporting documentation with the letter. After review, CBP will inform the individual of its redress decision. If the individual's request for redress is successful, the individual's eligibility to be a U.S. APEC Business Travel Card holder will continue immediately.

(2) *Ombudsman.* Applicants and participants may contest a denial, suspension or removal by writing to the CBP Trusted Traveler Ombudsman at the address listed on the Web site www.globalentry.gov.

(h) *Duration of U.S. APEC Business Travel Card Program.* DHS will issue U.S. APEC Business Travel Cards through September 30, 2018. Unless suspended or revoked, U.S. APEC Business Travel Cards issued on or before September 30, 2018 are valid until their expiration date, even if the expiration date is after September 30, 2018.

Jeh Charles Johnson,

Secretary.

[FR Doc. 2014–10767 Filed 5–12–14; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2013–0591; Airspace Docket No. 13–AGL–21]

Amendment of Class E Airspace; Amery, WI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class E airspace at Amery, WI. Decommissioning of the Ameron non-directional radio beacon (NDB) at Amery Municipal Airport has made airspace reconfiguration necessary for standard instrument approach procedures and for the safety and management of Instrument Flight Rule (IFR) operations at the airport.

DATES: *Effective date:* 0901 UTC, July 24, 2014. The Director of the Federal Register approves this incorporation by reference action under 1 CFR Part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Scott Enander, Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 2601 Meacham Blvd., Fort Worth, TX 76137; telephone 817–321–7716.

SUPPLEMENTARY INFORMATION:

History

On March 3, 2014, the FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to amend Class E airspace for the Amery, WI, area, modifying controlled airspace at Amery Municipal Airport (79 FR 11730) Docket No. FAA–2013–0591. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received. Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9X dated August 7, 2013, and effective September 15, 2013, which is incorporated by reference in 14 CFR Part 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) Part 71 by amending Class E airspace extending upward from 700 feet above the surface for standard instrument approach procedures at Amery Municipal Airport, Amery, WI. Airspace reconfiguration is necessary due to the decommissioning of the Ameron NDB and the cancellation of the NDB approach, thereby removing the 7.4-mile segment north extending from the 6.4-mile radius of the airport. Controlled airspace is necessary for the safety and management of IFR operations at the airport.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not

a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends controlled airspace at Amery Municipal Airport, Amery, WI.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures,'' paragraph 311a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E. O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR Part 71.1 of the Federal Aviation Administration Order 7400.9X, Airspace Designations and Reporting Points, dated August 7, 2013, and effective September 15, 2013, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface.

* * * * *

AGL WI E5 Amery, WI [Amended]

Amery Municipal Airport, WI
(Lat. 45°16′52″ N., long. 92°22′31″ W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Amery Municipal Airport.

Issued in Fort Worth, Texas, on May 5, 2014.

Kent M. Wheeler,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2014–10848 Filed 5–12–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2013–0589; Airspace Docket No. 13–ACE–9]

Amendment of Class E Airspace; Eagle Grove, IA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class E airspace at Eagle Grove, IA. Decommissioning of the Eagle Grove non-directional radio beacon (NDB) at Eagle Grove Municipal Airport has made airspace reconfiguration necessary for standard instrument approach procedures and for the safety and management of Instrument Flight Rule (IFR) operations at the airport. Geographic coordinates are also adjusted.

DATES: *Effective date:* 0901 UTC, July 24, 2014. The Director of the Federal Register approves this incorporation by reference action under 1 CFR Part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Scott Enander, Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 2601 Meacham Blvd., Fort Worth, TX 76137; telephone 817–321–7716.

SUPPLEMENTARY INFORMATION:

History

On March 3, 2014, the FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to amend Class E airspace for the Eagle Grove, IA, area, modifying controlled airspace at Eagle Grove Municipal Airport (79 FR 11734) Docket No. FAA–2013–0589. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received. Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9X dated August 7, 2013, and effective September 15, 2013, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) Part 71 by amending Class E airspace extending upward from 700 feet above the surface for standard instrument approach procedures at Eagle Grove Municipal Airport, Eagle Grove, IA. Airspace reconfiguration is necessary due to the decommissioning of the Eagle Grove NDB and the cancellation of the NDB approach. The segment northwest of the airport is now within 2.6 miles each side of the 305° bearing from the airport. Controlled airspace is necessary for the safety and management of IFR operations at the airport. Geographic coordinates are also adjusted to coincide with the FAA's aeronautical database.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in

Title 49 of the U.S. Code. Subtitle 1, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends controlled airspace at Eagle Grove Municipal Airport, Eagle Grove, IA.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures,'' paragraph 311a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9X, Airspace Designations and Reporting Points, dated August 7, 2013, and effective September 15, 2013, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface.

* * * * *

ACE IA E5 Eagle Grove, IA [Amended]

Eagle Grove Municipal Airport, IA
(Lat. 42°42′36″ N., long. 93°54′58″ W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Eagle Grove Municipal Airport, and within 2.6 miles each side of the 305° bearing from the airport extending from the 6.4-mile radius to 7.4 miles northwest of the airport.

Issued in Fort Worth, Texas, on May 5, 2014.

Kent M. Wheeler,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2014–10862 Filed 5–12–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2013–0918; Airspace Docket No. 13–ASW–21]

Amendment of Class E Airspace; Dalhart, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class E airspace at Dalhart, TX. Additional controlled airspace is necessary to accommodate new Standard Instrument Approach Procedures (SIAP) at Dalhart Municipal Airport. The FAA is taking this action to enhance the safety and management of Instrument Flight Rule (IFR) operations for SIAPs at the airport.

DATES: *Effective date:* 0901 UTC, July 24, 2014. The Director of the Federal Register approves this incorporation by reference action under 1 CFR Part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Scott Enander, Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 2601 Meacham Blvd., Fort Worth, TX 76137; telephone 817–321–7716.

SUPPLEMENTARY INFORMATION:

History

On March 3, 2014, the FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to amend Class E airspace for the Dalhart, TX, area, modifying controlled airspace at Dalhart Municipal Airport (79 FR 11731) Docket No. FAA–2013–0918. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received. Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9X dated August 7, 2013, and effective September 15, 2013, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) Part 71 by amending Class E airspace extending upward from 700 feet above the surface to accommodate new standard instrument approach procedures at Dalhart Municipal Airport, Dalhart, TX. Accordingly, the existing segment extending from the 6.7-mile radius of the airport to 11 miles north of the airport is expanded to 11.8 miles, to retain the safety and management of IFR aircraft in Class E airspace to/from the en route environment.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends controlled airspace at Dalhart Municipal Airport, Dalhart, TX.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1E, ''Environmental

Impacts: Policies and Procedures,'' paragraph 311a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9X, Airspace Designations and Reporting Points, dated August 7, 2013, and effective September 15, 2013, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

ASW TX E5 Dalhart, TX [Amended]

Dalhart Municipal Airport, TX
(Lat. 36°01′21″ N., long. 102°32′51″ W.)
Dalhart VORTAC
(Lat. 36°05′29″ N., long. 102°32′41″ W.)

That airspace extending upward from 700 feet above the surface within a 6.7-mile radius of Dalhart Municipal Airport, and within 2 miles each side of the 000° bearing from the airport extending from the 6.7-mile radius to 11.8 miles north of the airport, and within 1.6 miles each side of the 181° radial of the Dalhart VORTAC extending from the 6.7-mile radius to 12.1 miles south of the airport.

Issued in Fort Worth, Texas, on May 5, 2014.

Kent M. Wheeler,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2014–10863 Filed 5–12–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2013–0595; Airspace Docket No. 13–ACE–10]

Amendment of Class E Airspace; Albion, NE

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class E airspace at Albion, NE. Decommissioning of the Alaby non-directional radio beacon (NDB) at Albion Municipal Airport has made reconfiguration necessary for standard instrument approach procedures and for the safety and management of Instrument Flight Rule (IFR) operations at the airport.

DATES: *Effective date:* 0901 UTC, July 24, 2014. The Director of the Federal Register approves this incorporation by reference action under 1 CFR Part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Scott Enander, Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 2601 Meacham Blvd., Fort Worth, TX 76137; telephone 817–321–7716.

SUPPLEMENTARY INFORMATION:

History

On February 28, 2014, the FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to amend Class E airspace for the Albion, NE., area, modifying controlled airspace at Albion Municipal Airport (79 FR 11360) Docket No. FAA–2013–0595. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received. Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9X dated August 7, 2013, and effective September 15, 2013, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) Part 71 by amending Class E airspace extending upward from 700 feet above the surface for standard instrument approach procedures at Albion Municipal Airport, Albion, NE. Airspace reconfiguration is necessary due to the decommissioning of the Alaby NDB and the cancellation of the NDB approach. The segment southeast of the airport is now within 2.6 miles each side of the 159° bearing from the airport. Controlled airspace is necessary for the safety and management of IFR operations at the airport.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends controlled airspace at Albion Municipal Airport, Albion, NE.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures,'' paragraph 311a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9X, Airspace Designations and Reporting Points, dated August 7, 2013, and effective September 15, 2013, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface

* * * * *

ACE NE E5 Albion, NE [Amended]

Albion Municipal Airport, NE
(Lat. 41°43′43″ N., long. 98°03′21″ W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Albion Municipal Airport, and within 2.6 miles each side of the 159° bearing from the airport extending from the 6.5-mile radius to 7 miles southeast of the airport.

Issued in Fort Worth, Texas, on May 5, 2014.

Kent M. Wheeler,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2014–10866 Filed 5–12–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2013–0996; Airspace Docket No. 12–AAL–9]

Amendment of Class E Airspace; Kuparuk, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class E airspace at Ugnu-Kuparuk Airport, Kuparuk, AK. Controlled airspace is necessary to accommodate aircraft using the new Area Navigation (RNAV) Global Positioning System (GPS) standard instrument approach procedures at the airport. This action enhances the safety and management of aircraft operations at the airport. This action will also make an adjustment to the geographic coordinates of the airport.

DATES: Effective date, 0901 UTC, July 24, 2014. The Director of the Federal Register approves this incorporation by reference action under 1 CFR Part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Richard Roberts, Federal Aviation Administration, Operations Support Group, Western Service Center, 1601 Lind Avenue SW., Renton, WA 98057; telephone (425) 203–4517.

SUPPLEMENTARY INFORMATION:

History

On February 5, 2014 the FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to modify controlled airspace at Ugnu-Kuparuk Airport, Kuparuk, AK (79 FR 6841). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class E airspace designations are published in paragraph 6005, of FAA Order 7400.9X dated August 7, 2013, and effective September 15, 2013, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in that Order.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) Part 71 by modifying Class E airspace extending upward from 700 feet above the surface and establishing Class E airspace extending upward from 1,200 feet above the surface at Ugnu-Kuparuk Airport, Kuparuk, AK. Class E airspace extending upward from 700 feet above the surface is modified to within a 6.5-mile radius of the airport, with a segment extending from the 6.5-mile radius of the airport to 9.5-miles east of the airport. The segment of controlled airspace west of the airport is removed as it is no longer required. A segment of Class E airspace extending upward from 1,200 feet above the surface is established within a 20-mile radius of the airport to allow aircraft to transition to the overlying airways. This action enhances the safety and management of IFR operations at the airport. Also, the geographic coordinates of the airport are updated to be in concert with the FAAs aeronautical database.

The FAA has determined this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106 discusses the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends controlled airspace at Ugnu-Kuparuk Airport, Kuparuk, AK.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures,'' paragraph 311a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9X, Airspace Designations and Reporting Points, dated August 7, 2013, and effective September 15, 2013 is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

AAL AK E5 Kuparuk, AK [Modified]

Ugnu-Kuparuk Airport, AK
(Lat. 70°19′50″ N., long. 149°35′53″ W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Ugnu-Kuparuk Airport, and within 4 miles either side of the 078° bearing extending from the Ugnu-Kuparuk Airport 6.5-mile radius to 9.5 miles east of the airport; and that airspace extending upward from 1,200 feet above the surface within a 20-mile radius of the Ugnu-Kuparuk Airport; excluding that airspace that extends beyond 12 miles of the shoreline.

Issued in Seattle, Washington, on April 28, 2014.

Clark Desing,

Manager, Operations Support Group, Western Service Center.

[FR Doc. 2014–10867 Filed 5–12–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF STATE

22 CFR Parts 120, 121, and 124

[Public Notice: 8728]

RIN 1400–AD33

Amendment to the International Traffic in Arms Regulations: Revision of U.S. Munitions List Category XV

AGENCY: Department of State.

ACTION: Interim final rule.

SUMMARY: As part of the President's Export Control Reform (ECR) effort, the Department of State is amending the International Traffic in Arms Regulations (ITAR) to revise Category XV (Spacecraft and Related Articles) of the U.S. Munitions List (USML) to describe more precisely the articles warranting control in that category. The revisions contained in this rule are part of the Department of State's retrospective plan under Executive Order 13563 completed on August 17, 2011. This rule is published as an interim final rule because the Department believes that substantial national security benefits will flow from the changes to the controls on spacecraft and related items, but acknowledges that additional analysis of and public comment on the control thresholds for remote sensing satellites are warranted.

DATES: This rule is effective November 10, 2014, except for § 121.1, Category XV(d), which is effective June 27, 2014. Interested parties may submit comments on paragraphs (a)(7) and (e)(11) of USML Category XV and ITAR § 124.15 by June 27, 2014.

ADDRESSES: Interested parties may submit comments on paragraphs (a)(7) and (e)(11) of USML Category XV and ITAR § 124.15 within 45 days of the date of publication by one of the following methods:

- *E-mail: DDTCResponseTeam@state.gov* with the subject line, ''USML Category XV(a)(7) and (e)(11) and ITAR § 124.15.''
- *Internet:* At *www.regulations.gov,* search for this notice by using this notice's RIN (1400–AD33).

Comments received after that date may be considered if feasible, but consideration cannot be assured. Those submitting comments should not include any personally identifying information they do not desire to be made public or information for which a claim of confidentiality is asserted because those comments and/or transmittal emails will be made available for public inspection and copying after the close of the comment period via the Directorate of Defense Trade Controls Web site at *www.pmddtc.state.gov.* Parties who wish to comment anonymously may do so by submitting their comments via *www.regulations.gov,* leaving the fields that would identify the commenter blank and including no identifying information in the comment itself. Comments submitted via *www.regulations.gov* are immediately available for public inspection.

FOR FURTHER INFORMATION CONTACT: Mr. C. Edward Peartree, Director, Office of Defense Trade Controls Policy, Department of State, telephone (202) 663–2792; email *DDTCResponseTeam@state.gov.* ATTN: Regulatory Change, USML Category XV. The Department of State's full retrospective plan can be accessed at *http://www.state.gov/documents/organization/181028.pdf.*

SUPPLEMENTARY INFORMATION: The Directorate of Defense Trade Controls (DDTC), U.S. Department of State, administers the International Traffic in Arms Regulations (ITAR) (22 CFR parts 120–130). The items subject to the jurisdiction of the ITAR, *i.e.,* ''defense articles'' and ''defense services,'' are identified on the ITAR's U.S. Munitions List (USML) (22 CFR 121.1). With few exceptions, items not subject to the export control jurisdiction of the ITAR are subject to the jurisdiction of the Export Administration Regulations (''EAR,'' 15 CFR 730–774, which includes the Commerce Control List (CCL) in Supplement No. 1 to part 774), administered by the Bureau of Industry and Security (BIS), U.S. Department of Commerce. Both the ITAR and the EAR impose license requirements on exports, reexports, and retransfers. Items not subject to the ITAR, or to the exclusive licensing jurisdiction of any other set of regulations, are subject to the EAR.

All references to the USML in this rule are to the list of defense articles and defense services controlled for the purpose of export or temporary import pursuant to the ITAR, and not to the defense articles on the USML that are controlled by the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) for the purpose of permanent import under its regulations. *See* 27 CFR 447. Pursuant to section 38(a)(1) of the Arms Export Control Act (AECA), all defense articles controlled for export or import are part of the USML under the AECA. For the sake of clarity, the list of defense articles controlled by ATF for the purpose of permanent import is the U.S. Munitions Import List (USMIL). The transfer of defense articles from the ITAR's USML to the EAR's CCL for the purpose of export control does not affect the list of defense articles controlled on the USMIL under the AECA for the purpose of permanent import.

Changes in This Rule

The following changes are made to the ITAR with this interim final rule: (i) Revision of U.S. Munitions List (USML) Category XV (Spacecraft and Related Articles); (ii) amendment to paragraph (i) of USML Category IV, regarding spacecraft-launch vehicle integration and launch failure analysis services; (iii) conforming edits to ITAR § 124.15, regarding special export controls for satellites and satellite launches; and (iv) amendment to ITAR § 120.10(b) to include telemetry data to the list of exclusions from technical data. The Department notes that there is a shorter implementation period for radiation-hardened microelectronic circuits formerly described in paragraph (d) of

USML Category XV; 45 days following publication of this rule, they are controlled in ECCN 9A515.d. In addition, microelectronic circuits that would otherwise have been within the scope of paragraph (e) of USML Category XV are no longer subject to the ITAR 45 days following the publication of this rule; instead, they are controlled in ECCN 9A515.e. Software and technical data directly related to such microelectronic circuits are controlled in ECCNs 9D515 and 9E515, respectively, 45 days following the publication of this rule as well.

When moving items from the USML to the jurisdiction of the CCL, the Department coordinates the publication of rules with the Department of Commerce so there is uninterrupted regulatory coverage for the items changing jurisdiction. The Department of Commerce's companion to this rule is, ''Revisions to the Export Administration Regulations (EAR): Control of Spacecraft Systems and Related Items the President Determines No Longer Warrant Control Under the United States Munitions List (USML).'' It is published elsewhere in this issue of the **Federal Register**.

The revised definition for defense services, published with the USML Category XV proposed rule (RINs 1400–AC80 and 1400–AD33) on May 24, 2013, will be the subject of a separate rule.

Impact on Licensing Burden

As required by Executive Order 13563, the Department intends to review this rule's impact on the licensing burden on exporters. Licensing and export data are routinely collected on an ongoing basis, including from the Department's electronic licensing database, from the Automated Export System, and from public comments. This information has been, and will continue to form, the basis for ongoing reviews of this rule and other rules promulgated pursuant to ECR. As part of its plan for retrospective analysis under Executive Order 13563, the Department intends to conduct periodic reviews of this rule and to modify, or repeal, aspects of this rule, as appropriate, after public notice and comment. With regard to a number of aspects of this rule, assessments and refinements will be made on an ongoing basis. This is particularly the case with regard to possible modifications that will be considered based on the public comments.

Revision of USML Category XV

This interim final rule revises USML Category XV, covering spacecraft and related articles, to remove from it certain articles that are now subject to the EAR, and to more clearly describe the articles controlled therein.

This rule follows a change to section 1513 of Public Law 105–261, the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999, which required that space-related items, including all satellites, were to be controlled as defense articles and removed the President's authority to move these items off the USML.

Section 1248 of the National Defense Authorization Act for Fiscal Year 2010 (Pub. L. 111–84) provided that the Secretaries of Defense and State carry out an assessment of the risks associated with removing satellites and related components from the USML. The Departments of Defense and State conducted this review and identified certain satellites and related items that are not critical to national security, do not contain technologies unique to the United States, and are more appropriately subject to the EAR, which allows for the creation of license exceptions for exports to certain destinations and complete controls for exports to others. This report was provided to the Congress in April 2012.

The National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112–239), in section 1261, returned to the President the authority to determine which satellites and related articles are controlled on the USML. With this authority, and consistent with the President's Export Control Reform (ECR) effort, the Department made the following revisions to USML Category XV.

Paragraphs (a) and (e) are revised to more specifically describe the articles controlled therein. Certain commercial communications and remote sensing satellites are not enumerated in paragraph (a); they are now subject to the EAR.

Paragraph (b) is revised to limit its scope to ground control systems and training simulators specially designed for telemetry, tracking, and control of spacecraft in paragraph (a) of USML Category XV.

The articles currently covered in paragraph (c), certain Global Positioning System receiving equipment, will be proposed for control in USML Category XII. Until a revised USML Category XII is implemented, these articles will continue to be covered in paragraph (c).

The articles formerly covered in paragraph (d), certain radiation-hardened microelectronic circuits, are controlled on the CCL in new ECCN 9A515.d. To the extent paragraph (e) controlled any other microelectronic circuits, they are controlled on the CCL in new ECCN 9A515.e. Software and technical data directly related to such microelectronic circuits are controlled on the CCL in new ECCNs 9D515 and 9E515, respectively. The effective date for these changes in controls pertaining to microelectronic circuits is 45 days from the publication date of this rule.

Paragraph (f) is revised to explicitly provide that directly related defense services include the furnishing of assistance (including training) in the integration of a satellite or spacecraft to a launch vehicle, including both planning and onsite support, regardless of the jurisdiction, ownership, or origin of the satellite or spacecraft, or whether technical data is used. It also includes the furnishing of assistance (including training) in the launch failure analysis of a satellite or spacecraft, regardless of the jurisdiction, ownership, or origin of the satellite of spacecraft, or whether technical data is used. This text was part of the defense services definition published with the proposed rule for this category; the Department now provides it in paragraph (f).

Articles common to the Missile Technology Control Regime (MTCR) Annex and the USML are identified on the USML, including in USML Category XV, with the parenthetical ''(MT)'' at the end of each paragraph containing such articles.

A new ''(x) paragraph'' is added to USML Category XV, allowing ITAR licensing for commodities, software, and technology subject to the EAR, provided those commodities, software, and technology are to be used in or with defense articles controlled in USML Category XV and are described in the purchase documentation submitted with the application. The Department notes that ''technical data'' instead of ''technology'' was used in the revised USML categories that have been published thus far, and that have a paragraph (x). Those paragraphs will be amended to adopt this change. The EAR definition of technology is operative in this paragraph.

Revised USML Category XV, along with a revised definition for defense services, was published as a proposed rule on May 24, 2013, for public comment (*see* ''Amendment to the International Traffic in Arms Regulations: Revision of U.S. Munitions List Category XV and Definition of 'Defense Service,''' 78 FR 31444, RINs 1400–AC80 and 1400–AD33). The comment period ended July 8, 2013. The public comments were reviewed and considered by the Department and other agencies. The Department's evaluation of the written comments and

recommendations for the defense services definition will be provided in a separate rule regarding defense services. The Department's evaluation of the written comments and recommendations for USML Category XV follows.

The Department notes that although the Administration sought the authority to decide the export licensing jurisdiction for spacecraft and related articles, the Department, along with the Department of Defense, reported to the Congress that currently only three broad types of articles are appropriate to control on the CCL: Communication satellites that do not contain classified components or capability; remote sensing satellites with performances parameters below certain thresholds; and systems, subsystems, parts, and components associated with these satellites and with performance parameters below certain thresholds. The Department intends to control on the USML, and specifically provides for this in paragraph (a) introductory text, some spacecraft that have commercial end-use. Spacecraft that have commercial end-use with capabilities above specified thresholds will still be controlled on the USML. Therefore, the Department did not accept recommendations to move off the USML certain spacecraft based on the rationale that established commercial end-use alone should determine export jurisdiction.

As an example, a commenting party recommended that satellites and associated articles pertaining to the Amateur Satellite Service not be controlled on the USML. To the greatest extent possible, the Department is revising the USML using the principle of control based on article capability, and not article end-use, believing the former to be the better standard for protecting the technologies of importance to national security. Based on this standard, the Department did not accept this recommendation or other recommendations to remove from USML Category XV satellites and associated articles based solely on potential or actual commercial application. As was the case before this revision, if a commercial or research activity requires the export of an article controlled under USML Category XV (to include the provision of technical data to a foreign person in the United States, but excluding certain instances where a defense article is incorporated into a spacecraft now subject to the EAR), ITAR licensing requirements apply.

Commenting parties recommended various articles that would be pertinent to the emerging civil and commercial space industry be moved from the USML to the CCL so as to facilitate its growth. The Department did not accept the premise of this recommendation. The review of USML Category XV was conducted with the intent of appropriately protecting military-critical technologies; the revisions to the category are consistent with this intention. While nurturing the civil and commercial space industry is a laudable goal, certain of the technologies on which this industry may develop and operate are of critical military importance and concern, and therefore must remain controlled on the USML at this time. For example, launching spacecraft to sub-orbit or orbit requires MTCR Category I items, upon which are placed the greatest restraint with regard to export. The Department deems it appropriate that such articles are controlled on the USML. Spacecraft specially designed for human space flight that have integrated propulsion present another security concern, for such capabilities may be used for the purposes of weapons targeting from space. So, although these technologies and capabilities are used in commercial endeavors, they continue to merit control on the USML. As technologies develop, and as there may come to be a greater differentiation between military-critical and commercial technologies, their licensing jurisdiction will be reassessed, as provided for in section 38(f) of the AECA.

In response to the recommendation of commenting parties, the Department qualified the term ''track'' in paragraph (a)(2) by adding the terms ''autonomously'' and ''real-time.''

In response to the recommendation of a commenting party, the Department clarifies that paragraph (a)(3) does not capture signal interference mitigation technology and revised the paragraph to make clearer the intention of the paragraph.

Commenting parties recommended revising paragraph (a)(4), to except from it such services that are commercial in nature. The Department did not accept this recommendation. As the technology and applications in question are at an initial phase of development, the Department does not believe there is currently a commercial impact of this regulation. The Department, though, modified the text to more precisely describe the articles controlled therein, and renumbered it as paragraph (a)(10).

Commenting parties recommended the aperture threshold for civil and commercial remote sensing satellites in paragraph (a)(7)(i) be increased from 0.35 meters to a threshold more appropriate for current world capabilities and market conditions. The Department did not accept this recommendation at this time. However, it, along with other agencies, understands that the technology and civil and commercial applications in this area are evolving. Thus, the Department has committed to reviewing during the six months after the publication of this rule whether further amendments to the USML controls on civil and commercial remote sensing satellites are warranted, and seeks additional public comment on this matter.

In response to the recommendation of a commenting party, the Department confirms that satellites with payloads designed to supplement the signals produced by other satellite-based or terrestrial navigation systems for specific geographic areas or terrestrial applications are not covered by paragraph (a)(9). Therefore, a satellite or spacecraft that provides only a differential correction broadcast for the purposes of positioning, navigation, or timing is controlled in ECCN 9A515.

In response to commenting parties, the Department removed as a control parameter the text of paragraph (c)(2) (''designed for producing navigation results above 60,000 feet altitude and at 1,000 knots velocity or greater'') for Global Positioning System receiving equipment. That control parameter has been updated based upon the MTCR Annex. Therefore, Global Positioning System receiving equipment designed or modified for airborne applications and capable of providing navigation information at speeds in excess of 600 m/s (1,165 nautical mph), and specially designed parts and components therefor, are controlled in ECCN 7A105. Paragraph (c) controls Global Positioning System receiving equipment based upon the three remaining criteria.

In response to the recommendation of commenting parties, the Department provided a shorter implementation period for radiation-hardened microelectronic circuits. The articles formerly described in paragraph (d) are controlled in ECCN 9A515.d, 45 days following publication of this rule. In addition, microelectronic circuits that would otherwise have been within the scope of paragraph (e) are no longer subject to the ITAR 45 days following the publication of this rule; instead, they are controlled in ECCN 9A515.e. Software and technical data directly related to such microelectronic circuits are controlled in ECCNs 9D515 and 9E515, respectively, 45 days following the publication of this rule as well. The Department notes that these items cannot be exported via a Department

license intended to export only USML Category XV articles until paragraph (x) of USML Category XV takes effect (and provided the other criteria for use of paragraph (x) are met).

In response to the recommendation of commenting parties, the Department revised the text in paragraph (e)(1) to clarify that antennas on spacecraft are controlled therein, and not ground-based antennas.

A commenting party recommended that the diameter of the antenna system described in paragraph (e)(1) be increased from greater than 25 meters to greater than 35 meters, and the aperture dimension provided for space-qualified optics in paragraph (e)(2) be increased. The Department did not accept these recommendations. The Department notes that, as provided in a note to paragraph (e), spacecraft and other items described in ECCN 9A515 remain subject to the EAR, even if defense articles are incorporated therein, provided the resultant spacecraft is not described in paragraph (a).

In response to commenting parties, the Department clarifies that paragraph (e)(7) does not control space-qualified laser radar or Light Detection and Ranging (LIDAR) equipment, and notes that none of the items excluded from USML control, as formerly identified in a note to paragraph (e), are included in this revised USML Category XV.

A commenting party requested clarification of the term ''space-based'' in paragraph (e)(8), and how it is differentiated from the term ''space-qualified.'' The Department moved the controls of paragraph (e)(8) to (e)(7), and removed paragraph (e)(8) and use of the term ''space-based.'' The Department included in a note to paragraph (e) the information that the terms ''designed'' and ''manufactured'' in the space-qualified definition are synonymous with the specially designed definition of ITAR § 120.41. The Department also notes that use in the ITAR of the ''space-qualified'' definition, a central criterion of which is the altitude aspect, does not indicate that the U.S. government has accepted that the altitude of 100 km above the surface of the Earth represents a legal demarcation between national air space and outer space under United States or international law.

The Department notes that paragraph (e)(11) has been expanded to include other space-based systems that were not included in the proposed rule. In the proposed rule, paragraph (e)(11) read thus: ''Space-based nuclear thermionic or non-nuclear thermionic converters or generators, and specially designed parts and components therefor.'' In this rule, paragraph (e)(11) reads thus: ''Space-based systems, and specially designed parts and components therefor, as follows: (i) Nuclear reactors and associated power conversion systems (*e.g.,* liquid metal or gas-cooled fast reactors); (ii) radioisotope-based power systems (*e.g.,* radioisotope thermoelectric generators); or (iii) nuclear thermal propulsion systems (*e.g.,* solid core, liquid core, gas core fission.'' The Department is seeking comment on this revision of paragraph (e)(11).

In response to commenting parties, the Department revised the regulation at paragraph (e)(13) to capture those control moment gyroscopes that are specially designed for spacecraft. The Department notes that paragraph (e)(13) does not control fly wheels or reaction wheels.

Commenting parties requested clarification that an ITAR-controlled hosted payload on a satellite subject to the EAR would not change the licensing jurisdiction of the satellite, making it a satellite controlled on the USML. The Department added a note to paragraph (e)(17) stipulating that a satellite subject to the EAR that has such a hosted payload that performs any of the functions described in paragraph (a) will remain subject to the EAR. In addition, the note also provides that a satellite with a primary or secondary payload that performs any of the functions described in paragraph (a) is a satellite controlled on the USML.

The Department did not accept the recommendation of commenting parties to remove the paragraph controlling payloads developed with Department of Defense funding, but it did provide for certain exclusions, and added a provision delaying the effective date of the paragraph for six months beyond the effective date of the revised category. One such exclusion is that a payload developed with Department of Defense funding can nonetheless be determined to be subject to the EAR pursuant to a Commodity Jurisdiction determination. This means that, with respect to secondary or hosted payload, or specially designed parts or components therefor, that are subject to the ITAR only by virtue having been developed with Defense Department funding (*i.e.,* no other parts of USML Category XV apply to the articles), one may request the Department to exercise its discretion to determine under ITAR § 120.4 that the article is nonetheless not subject to the ITAR. The Department will process such requests on a case-by-case basis based on whether the article at issue would otherwise meet the standards for being included on the USML.

Commenting parties recommended the Department confirm that various types of telemetry—*i.e.,* communications to and from satellites and other spacecraft, whether on the ground, in the air, or in space—are not subject to the ITAR or the EAR, or, if so, to exclude them from the controls for satellite and spacecraft technical data and technology in paragraph (f) and ECCN 9E515. Based on a review of the comments and the types of information pertaining to satellites and spacecraft that warrant control, the Departments of State and Commerce have determined to codify existing policy within the regulations that data transmitted to or from a satellite or spacecraft, whether real or simulated, is not subject to the ITAR and, if within the scope of the EAR's definition of ''technology,'' is designated as EAR99 if it is limited to information about the health, operational status, or function of, or raw sensor output from, the spacecraft, spacecraft payload, or its associated subsystems or components. Such information is often referred to as ''housekeeping data.'' In addition, the act of processing such telemetry data—*i.e.,* converting raw data into engineering units or readable products—or encrypting it does not, in and of itself, cause the telemetry data to become subject to the ITAR or to ECCN 9E515. To implement this determination, the Department added a note to paragraph (f) that such information is not subject to the ITAR and the Department of Commerce added a note to ECCN 9E515 that such information, to the extent it would be subject to the EAR, is EAR99. Other types of technical data, as defined in ITAR § 120.10, directly related to USML Category XV articles and other types of technology, as defined in EAR § 772.1, required for 9A515 items, are still controlled. In addition, the notes to paragraph (f) and 9E515 do not change the ITAR-control status of classified information directly related to defense articles and defense services on the USML and 600-series items subject to the EAR, as well as information covered by an invention secrecy order. ''Classified,'' for these purposes, means that which is classified pursuant to Executive Order 13526, a predecessor or successor order, or to the corresponding classification rules of another government or international organization.

The Department received proposals for alternative phrasing of the regulatory text in USML Category XV. When the recommended changes added to the clarity of the regulation and were

consistent with the Administration's ECR effort, the Department accepted them.

As stated above, the Department will address public comments on the proposed revision of the defense services definition in a separate rule. However, the Department addresses here one of the comments that resulted in a change to USML Categories IV and XV. A commenting party recommended that paragraphs (a)(5) and (a)(6) of the proposed defense services definition, regarding the furnishing of assistance in the integration of a spacecraft to a launch vehicle and in the launch failure analysis of a spacecraft or launch vehicle, respectively, be removed, and that those activities be described in the USML categories covering spacecraft and launch vehicles, on the basis that a general definition should not have such program-specific clauses. The Department accepted this recommendation and revised paragraph (f) of USML Category XV and paragraph (i) of USML Category IV accordingly. The revision includes the recommendation of commenting parties to specifically provide that the service must be provided to a foreign person in order for it to be a licensable activity.

Additional Changes

The Department revised the definition of technical data at ITAR § 120.10 to specify that it does not include telemetry data as defined in note 3 to USML Category XV(f).

The Department amended paragraph (i) of USML Category IV to specify that directly related defense services include the furnishing of assistance (including training) in the integration of a satellite or spacecraft to a launch vehicle, including both planning and onsite support, regardless of the jurisdiction, ownership, or origin of the satellite or spacecraft, or whether technical data is used. It also includes the furnishing of assistance (including training) in the launch failure analysis of a launch vehicle, regardless of the jurisdiction, ownership, or origin of the launch vehicle, or whether technical data is used. This text was part of the defense services definition published with the proposed rule for USML Category XV; the Department now provides it in paragraph (i) of USML Category IV.

The Department revised ITAR § 124.15 to clarify which special export controls apply to satellites and related items subject to the ITAR and which controls apply to satellites and related items subject to the ITAR or the EAR. For certain of the special export controls, the Department of Commerce is adding consistent controls in its companion interim final rule for satellites subject to the EAR. Because the changes to this section were not in the proposed rule, the Department is now requesting comment.

Regulatory Analysis and Notices

Administrative Procedure Act

The Department of State is of the opinion that controlling the import and export of defense articles and services is a foreign affairs function of the United States Government and that rules implementing this function are exempt from sections 553 (rulemaking) and 554 (adjudications) of the Administrative Procedure Act (APA). Although the Department is of the opinion that this rule is exempt from the rulemaking provisions of the APA, the Department published this rule as proposed rule with a 45-day provision for public comment and without prejudice to its determination that controlling the import and export of defense services is a foreign affairs function.

Regulatory Flexibility Act

Since the Department is of the opinion that this rule is exempt from the provisions of 5 U.S.C. 553, there is no requirement for an analysis under the Regulatory Flexibility Act.

Unfunded Mandates Reform Act of 1995

This rulemaking does not involve a mandate that will result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any year and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

For purposes of the Small Business Regulatory Enforcement Fairness Act of 1996 (the ''Act''), a ''major'' rule is a rule that the Administrator of the OMB Office of Information and Regulatory Affairs finds has resulted or is likely to result in (1) an annual effect on the economy of $100,000,000 or more; (2) a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and foreign markets.

The Department does not believe this rulemaking will have an annual effect on the economy of $100,000,000 or more. Articles that are being removed from coverage in the U.S. Munitions List categories contained in this rule will still require licensing for export, but from the Department of Commerce. While the licensing regime of the Department of Commerce is more flexible than that of the Department of State, it is not expected that the change in jurisdiction of these articles will result in an export difference of $100,000,000 or more.

The Department also does not believe that this rulemaking will result in a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions, or have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and foreign markets.

Executive Orders 12372 and 13132

This rulemaking 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, it is determined that this rulemaking does not have sufficient federalism implications to require consultations or warrant the preparation of a federalism summary impact statement. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this rulemaking.

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributed impacts, and equity). These executive orders stress the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rulemaking has been designated a ''significant regulatory action,'' although not economically significant, under section 3(f) of Executive Order 12866. Accordingly, this rule has been reviewed by the

Office of Management and Budget (OMB).

Executive Order 12988

The Department of State reviewed this rulemaking in light of sections 3(a) and 3(b)(2) of Executive Order 12988 to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burden.

Executive Order 13175

The Department of State determined that this rulemaking will not have tribal implications, will not impose substantial direct compliance costs on Indian tribal governments, and will not preempt tribal law. Accordingly, the requirements of Executive Order 13175 do not apply to this rulemaking.

Paperwork Reduction Act

Following is a listing of approved collections that will be affected by revision of the USML and the CCL pursuant to ECR. This final rule continues the implementation of ECR. The list of collections and the description of the manner in which they will be affected pertains to revision of the USML in its entirety, not only to the category published in this rule. In accordance with the Paperwork Reduction Act, the Department of State will request comment on these collections from all interested persons. In particular, the Department will seek comment on changes to licensing burden based on implementation of regulatory changes pursuant to ECR, and on projected changes based on continued implementation of regulatory changes pursuant to ECR. The affected information collections are as follows:

(1) Statement of Registration, DS–2032, OMB No. 1405–0002. The Department estimates that up to 5,000 of currently-registered persons will not need to maintain registration following full revision of the USML. This would result in a burden reduction of 10,000 hours annually, based on a revised time burden of two hours to complete a Statement of Registration.

(2) Application/License for Permanent Export of Unclassified Defense Articles and Related Unclassified Technical Data, DSP–5, OMB No. 1405–0003. The Department estimates that there will be 35,000 fewer DSP–5 submissions annually following full revision of the USML. This would result in a burden reduction of 35,000 hours annually.

(3) Application/License for Temporary Import of Unclassified Defense Articles, DSP–61, OMB No. 1405–0013. The Department estimates that there will be 200 fewer DSP–61 submissions annually following full revision of the USML. This would result in a burden reduction of 100 hours annually.

(4) Application/License for Temporary Export of Unclassified Defense Articles, DSP–73, OMB No. 1405–0023. The Department estimates that there will be 800 fewer DSP–73 submissions annually following full revision of the USML. This would result in a burden reduction of 800 hours annually.

(5) Application for Amendment to License for Export or Import of Classified or Unclassified Defense Articles and Related Technical Data, DSP–6, –62, –74, –119, OMB No. 1405–0092. The Department estimates that there will be 2,000 fewer amendment submissions annually following full revision of the USML. This would result in a burden reduction of 1,000 hours annually.

(6) Request for Approval of Manufacturing License Agreements, Technical Assistance Agreements, and Other Agreements, DSP–5, OMB No. 1405–0093. The Department estimates that there will be 1,000 fewer agreement submissions annually following full revision of the USML. This would result in a burden reduction of 2,000 hours annually.

(7) Maintenance of Records by Registrants, OMB No. 1405–0111. The requirement to actively maintain records pursuant to provisions of the International Traffic in Arms Regulations (ITAR) will decline commensurate with the drop in the number of persons who will be required to register with the Department pursuant to the ITAR. As stated above, the Department estimates that up to 5,000 of the currently-registered persons will not need to maintain registration following full revision of the USML. This would result in a burden reduction of 100,000 hours annually. However, the ITAR does provide for the maintenance of records for a period of five years. Therefore, persons newly relieved of the requirement to register with the Department may still be required to maintain records.

(8) Export Declaration of Defense Technical Data or Services, DS–4071, OMB No. 1405–0157. The Department estimates that there will be 2,000 fewer declaration submissions annually following full revision of the USML. This would result in a burden reduction of 1,000 hours annually.

List of Subjects

22 CFR Parts 120 and 121

Arms and munitions, Classified information, Exports.

22 CFR Part 124

Arms and munitions, Exports, Technical assistance.

Accordingly, for the reasons set forth above, Title 22, Chapter I, Subchapter M, parts 120, 121, and 124 are amended as follows:

PART 120—PURPOSE AND DEFINITIONS

■ 1. The authority citation for part 120 continues to read as follows:

Authority: Sections 2, 38, and 71, Pub. L. 90–629, 90 Stat. 744 (22 U.S.C. 2752, 2778, 2797); 22 U.S.C. 2794; 22 U.S.C. 2651a; Pub. L. 105–261, 112 Stat. 1920; Pub. L. 111–266; Section 1261, Pub. L. 112–239; E.O. 13637, 78 FR 16129.

■ 2. Section 120.10 is amended by revising paragraph (b) to read as follows:

§ 120.10 Technical data.

* * * * *

(b) The definition in paragraph (a) of this section does not include information concerning general scientific, mathematical, or engineering principles commonly taught in schools, colleges, and universities, or information in the public domain as defined in § 120.11 of this subchapter or telemetry data as defined in note 3 to Category XV(f) of part 121 of this subchapter. It also does not include basic marketing information on function or purpose or general system descriptions of defense articles.

PART 121—THE UNITED STATES MUNITIONS LIST

■ 3. The authority citation for part 121 continues to read as follows:

Authority: Secs. 2, 38, and 71, Pub. L. 90–629, 90 Stat. 744 (22 U.S.C. 2752, 2778, 2797); 22 U.S.C. 2651a; Pub. L. 105–261, 112 Stat. 1920; Section 1261, Pub. L. 112–239; E.O. 13637, 78 FR 16129.

■ 4. Section 121.1 is amended by revising paragraph (i) of U.S. Munitions List Category IV and revising Category XV, to read as follows:

§ 121.1 General. The United States Munitions List.

* * * * *

Category IV— Launch Vehicles, Guided Missiles, Ballistic Missiles, Rockets, Torpedoes, Bombs, and Mines

* * * * *

(i) Technical data (*see* § 120.10 of this subchapter) and defense services (*see* § 120.9 of this subchapter) directly related to the defense articles enumerated in paragraphs (a) through (h) of this category and classified technical data directly related to items

controlled in ECCNs 0A604, 0B604, 0D604, 9A604, 9B604, or 9D604 and defense services using the classified technical data. Defense services include the furnishing of assistance (including training) in the integration of a satellite or spacecraft to a launch vehicle, including both planning and onsite support, regardless of the jurisdiction, ownership, or origin of the satellite or spacecraft, or whether technical data is used. It also includes the furnishing of assistance (including training) in the launch failure analysis of a launch vehicle, regardless of the jurisdiction, ownership, or origin of the launch vehicle, or whether technical data is used. (*See* § 125.4 of this subchapter for exemptions, and § 124.15 of this subchapter for special export controls for spacecraft and spacecraft launches.) (MT for technical data and defense services related to articles designated as such.)

* * * * *

Category XV— Spacecraft and Related Articles

(a) Spacecraft, including satellites and space vehicles, whether designated developmental, experimental, research, or scientific, or having a commercial, civil, or military end-use, that:

*(1) Are specially designed to mitigate effects (*e.g.,* scintillation) of or for detection of a nuclear detonation;

*(2) Autonomously track ground, airborne, missile, or space objects in real-time using imaging, infrared, radar, or laser systems;

*(3) Conduct signals intelligence (SIGINT) or measurement and signatures intelligence (MASINT);

*(4) Are specially designed to be used in a constellation or formation that when operated together, in essence or effect, form a virtual satellite (*e.g.,* functioning as if one satellite) with the characteristics or functions of other items in paragraph (a);

*(5) Are anti-satellite or anti-spacecraft (*e.g.,* kinetic, RF, laser, charged particle);

*(6) Have space-to-ground weapons systems (*e.g.,* kinetic or directed energy);

*(7) Have any of the following electro-optical remote sensing capabilities or characteristics:

(i) Electro-optical visible and near infrared (VNIR) (*i.e.,* 400nm to 1,000nm) or infrared (*i.e.,* greater than 1,000nm to 30,000nm) with less than 40 spectral bands and having a clear aperture greater than 0.35 meters;

(ii) Electro-optical hyperspectral with 40 spectral bands or more in the VNIR, short-wavelength infrared (SWIR) (*i.e.,* greater than 1,000nm to 2,500nm) or any combination of the aforementioned and having a Ground Sample Distance (GSD) less than 30 meters;

(iii) Electro-optical hyperspectral with 40 spectral bands or more in the mid-wavelength infrared (MWIR) (*i.e.,* greater than 2,500nm to 5,500nm) having a narrow spectral bandwidth of $\Delta\lambda$ less than or equal to 20nm full width at half maximum (FWHM) or having a wide spectral bandwidth with $\Delta\lambda$ greater than 20nm FWHM and a GSD less than 200 meters; or

(iv) Electro-optical hyperspectral with 40 spectral bands or more in the long-wavelength infrared (LWIR) (*i.e.,* greater than 5,500nm to 30,000nm) having a narrow spectral bandwidth of $\Delta\lambda$ less than or equal to 50nm FWHM or having a wide spectral bandwidth with $\Delta\lambda$ greater than 50nm FWHM and a GSD less than 500 meters;

Note 1 to paragraph (a)(7): Ground Sample Distance (GSD) is measured from a spacecraft's nadir (*i.e.,* local vertical) position.

Note 2 to paragraph (a)(7): Optical remote sensing spacecraft or satellite spectral bandwidth is the smallest difference in wavelength (*i.e.,* $\Delta\lambda$) that can be distinguished at full width at half maximum (FWHM) of wavelength λ.

Note 3 to paragraph (a)(7): An optical satellite or spacecraft is not Significant Military Equipment (*see* § 120.7 of this subchapter) if non-earth pointing.

* (8) Have radar remote sensing capabilities or characteristics (*e.g.,* active electronically scanned array (AESA), synthetic aperture radar (SAR), inverse synthetic aperture radar (ISAR), ultra-wideband SAR), except those having a center frequency equal to or greater than 1 GHz but less than or equal to 10 GHz and having a bandwidth less than 300 MHz;

(9) Provide Positioning, Navigation, and Timing (PNT) signals;

Note to paragraph (a)(9): This paragraph does not control a satellite or spacecraft that provides only a differential correction broadcast for the purposes of positioning, navigation, or timing.

(10) Provide space-based logistics, assembly, or servicing of any spacecraft (*e.g.,* refueling) and have integrated propulsion other than that required for attitude control;

(11) [Reserved]

(12) Provide for sub-orbital, Earth orbital, cis-lunar, lunar, deep space (*i.e.,* space beyond lunar orbit), and planetary spaceflight, or in-space human habitation, which have integrated propulsion other than that required for attitude control; or

* (13) Are classified, contain classified software or hardware, are manufactured using classified production data, or are being developed using classified information (*e.g.,* having classified requirements, specifications, functions, or operational characteristics or include classified cryptographic items controlled under USML Category XIII of this subchapter). ''Classified'' means classified pursuant to Executive Order 13526, or predecessor order, and a security classification guide developed pursuant thereto or equivalent, or to the corresponding classification rules of another government or international organization.

Note 1 to paragraph (a): Spacecraft not identified in this paragraph are subject to the EAR (*see* ECCNs 9A004 and 9A515). Spacecraft described in ECCNs 9A004 and 9A515 remain subject to the EAR even if defense articles described on the USML are incorporated therein, except when such incorporation results in a spacecraft described in this paragraph.

Note 2 to paragraph (a): This paragraph does not control (a) the International Space Station (ISS) and its specially designed (as defined in the EAR) parts and components, which are subject to the EAR, or (b) those articles for the ISS that are determined to be subject to the EAR via a commodity jurisdiction determination (*see* § 120.4 of this subchapter). Use of a defense article on the ISS that was not specially designed (as defined in the EAR) for the ISS does not cause the item to become subject to the EAR.

Note 3 to paragraph (a): Attitude control is the exercise of control over spacecraft orientation (*e.g.,* pointing) within an orbital plane, which may include orbit maintenance using the attitude control thrusters.

(b) Ground control systems or training simulators, specially designed for telemetry, tracking, and control (TT&C) of spacecraft in paragraph (a) of this category.

Note to paragraph (b): Parts, components, accessories, attachments, equipment, or systems that are common to ground control systems or training simulators controlled in this paragraph and those that are used for spacecraft not controlled in paragraph (a) of this category are subject to the EAR.

(c) Global Positioning System (GPS) receiving equipment specially designed for military application, or GPS receiving equipment with any of the following characteristics, and specially designed parts and components therefor:

(1) Specially designed for encryption or decryption (*e.g.,* Y-Code) of GPS precise positioning service (PPS) signals (MT if designed or modified for airborne applications);

(2) [Reserved]

(3) Specially designed for use with a null steering antenna, an electronically steerable antenna, or including a null

steering antenna designed to reduce or avoid jamming signals (MT if designed or modified for airborne applications);

(4) Specially designed for use with rockets, missiles, SLVs, drones, or unmanned air vehicle systems capable of delivering at least a 500 kg payload to a range of at least 300 km (MT if designed or modified for rockets, missiles, SLVs, drones, or unmanned air vehicle systems controlled in this subchapter).

Note to paragraph (c)(4): ''Payload'' is the total mass that can be carried or delivered by the specified rocket, missile, SLV, drone or unmanned aerial vehicle that is not used to maintain flight. For definition of ''range'' as it pertains to rocket systems, *see* note 1 to paragraph (a) of USML Category IV For definition of ''range'' as it pertains to aircraft systems, *see* note to paragraph (a) of USML Category VIII.

Note to paragraph (c): The articles described in this paragraph are subject to the EAR when, prior to export, reexport, retransfer, or temporary import, they are integrated into and included as an integral part of an item subject to the EAR.

(d) [Reserved]

(e) Spacecraft parts, components, accessories, attachments, equipment, or systems, as follows:

(1) Antenna systems specially designed for spacecraft that:

(i) Have a dimension greater than 25 meters in diameter or length of the major axis;

(ii) Employ active electronic scanning;

(iii) Are adaptive beam forming; or

(iv) Are for interferometric radar;

(2) Space-qualified optics (*i.e.,* lens or mirror), including optical coating, having active properties (*e.g.,* adaptive, deformable) with a largest lateral clear aperture dimension greater than 0.35 meters;

(3) Space-qualified focal plane arrays (FPA) having a peak response in the wavelength range exceeding 900nm and readout integrated circuit (ROIC), whether separate or integrated, specially designed therefor;

(4) Space-qualified mechanical (*i.e.,* active) cryocooler or active cold finger, and associated control electronics specially designed therefor;

(5) Space-qualified active vibration suppression, including active isolation and active dampening, and associated control electronics therefor;

(6) Optical bench assemblies specially designed to enable spacecraft to meet or exceed the parameters described in paragraph (a) of this category;

(7) Space-qualified kinetic or directed-energy systems (*e.g.,* RF, laser, charged particle) specially designed for spacecraft in paragraph (a)(5) or (a)(6) of this category, and specially designed parts and components therefor (*e.g.,* power conditioning and beam-handling/switching, propagation, tracking, and pointing equipment);

(8) [Reserved]

(9) Space-qualified cesium, rubidium, hydrogen maser, or quantum (*e.g.,* based upon Al, Hg, Yb, Sr, Be Ions) atomic clocks, and specially designed parts and components therefor;

(10) Attitude determination and control systems, and specially designed parts and components therefor, that provide a spacecraft's geolocation accuracy, without using Ground Location Points, better than or equal to:

(i) 5 meters (CE90) from low earth orbit (LEO);

(ii) 30 meters (CE90) from medium earth orbit (MEO);

(iii) 150 meters (CE90) from geosynchronous orbit (GEO); or

(iv) 225 meters (CE90) from high earth orbit (HEO);

(11) Space-based systems, and specially designed parts and components therefor, as follows:

(i) Nuclear reactors and associated power conversion systems (*e.g.,* liquid metal or gas-cooled fast reactors);

(ii) Radioisotope-based power systems (*e.g.,* radioisotope thermoelectric generators); or

(iii) Nuclear thermal propulsion systems (*e.g.,* solid core, liquid core, gas core fission;

(12) Thrusters (*e.g.,* rocket engines) that provide greater than 150 lbf (*i.e.,* 667.23 N) vacuum thrust (MT for rocket motors or engines having a total impulse capacity equal to or greater than 8.41x10∧5 newton seconds);

(13) Control moment gyroscope (CMG) specially designed for spacecraft;

(14) Space-qualified monolithic microwave integrated circuits (MMIC) that combine transmit and receive (T/R) functions on a single die as follows:

(i) Having a power amplifier with maximum saturated peak output power (in watts), Psat, greater than 200 divided by the maximum operating frequency (in GHz) squared [Psat >200 W*GHz2/fGHz2]; or

(ii) Having a common path (*e.g.,* phase shifter-digital attenuator) circuit with greater than 3 bits phase shifting at operating frequencies 10 GHz or below, or greater than 4 bits phase shifting at operating frequencies above 10 GHz;

(15) Space-qualified oscillator for radar in paragraph (a) of this category with phase noise less than −120 dBc/Hz + (20 log10(RF) (in GHz)) measured at 2 KHz*RF (in GHz) from carrier;

(16) Space-qualified star tracker or star sensor with angular accuracy less than or equal to 1 arcsec (1-Sigma) per star coordinate, and a tracking rate equal to or greater than 3.0 deg/sec, and specially designed parts and components therefor (MT);

*(17) Primary, secondary, or hosted payload that performs any of the functions described in paragraph (a) of this category;

Note 1 to paragraph (e)(17): *Primary payload* is that complement of equipment designed from the outset to accomplish the prime mission function of the spacecraft payload mission set. The primary payload may operate independently from the secondary payload(s). *Secondary payload* is that complement of equipment designed from the outset to be fully integrated into the spacecraft payload mission set. The secondary payload may operate separately from the primary payload. *Hosted payload* is a complement of equipment or sensors that uses the available or excess capacity (mass, volume, power, etc.) of a spacecraft to accommodate an additional, independent mission. The hosted payload may share the spacecraft bus support infrastructure. The hosted payload performs an additional, independent mission which does not dictate control or operation of the spacecraft. A hosted payload is not capable of operating as an independent spacecraft. *Spacecraft bus* (distinct from the spacecraft payload), provides the support infrastructure of the spacecraft (*e.g.,* command and data handling, communications and antenna(s), electrical power, propulsion, thermal control, attitude and orbit control, guidance, navigation and control, structure and truss, life support (for crewed mission)) and location (*e.g.,* attachment, interface) for the spacecraft payload. *Spacecraft payload* is that complement of equipment attached to the spacecraft bus that performs a particular mission in space (*e.g.,* communications, observation, science).

Note 2 to paragraph (e)(17): An ECCN 9A004 or ECCN 9A515.a spacecraft remains a spacecraft subject to the EAR even when incorporating a hosted payload performing a function described in paragraph (a) of this category. All spacecraft that incorporate primary or secondary payloads that perform a function described in paragraph (a) of this category are controlled by that paragraph.

*(18) Secondary or hosted payload, and specially designed parts and components therefor, developed with Department of Defense-funding;

Note 1 to paragraph (e)(18): This paragraph does not control payloads that are (a) determined to be subject to the EAR via a commodity jurisdiction determination (*see* § 120.4 of this subchapter), or (b) identified in the relevant Department of Defense contract or other funding authorization or agreement as being developed for both military and either civil or commercial applications.

Note 2 to paragraph (e)(18): This paragraph is applicable only to those contracts or funding authorizations or agreements that are dated XXXX XX, 2015, or later.

(19) Spacecraft heat shields or heat sinks specially designed for atmospheric entry or re-entry, and specially designed parts and components therefor (MT if usable in rockets, SLVs, missiles, drones, or UAVs capable of delivering a payload of at least 500 kg to a range of at least 300 km);

Note to paragraph (e)(19): ''Payload'' is the total mass that can be carried or delivered by the specified rocket, SLV, missile, drone, or UAV that is not used to maintain flight. For definition of ''range'' as it pertains to aircraft systems, *see* note to paragraph (a) of USML Category VIII. For definition of ''range'' as it pertains to rocket systems, *see* note 1 to paragraph (a) of USML Category IV.

(20) Equipment modules, stages, or compartments that contain propulsion other than that required for attitude control and can be separated or jettisoned from another spacecraft (*see* note 3 to paragraph (a) of this category); or

*(21) Any part, component, accessory, attachment, equipment, or system that:

(i) Is classified;

(ii) Contains classified software; or

(iii) Is being developed using classified information.

Note to paragraph (e)(21): ''Classified'' means classified pursuant to Executive Order 13526, or predecessor order, and a security classification guide developed pursuant thereto or equivalent, or to the corresponding classification rules of another government or international organization.

Note 1 to paragraph (e): Parts, components, accessories, attachments, equipment, or systems specially designed for spacecraft or other articles enumerated in this category but not listed in paragraph (e) are subject to the EAR.

Note 2 to paragraph (e): The articles described in this paragraph are subject to the EAR when, prior to export, reexport, retransfer, or temporary import, they are integrated into and included as an integral part of an item subject to the EAR (*see* note 2 to paragraph (e)(17) of this category).

Note 3 to paragraph (e): For the purposes of this paragraph, an article is space-qualified if it is designed, manufactured, or qualified through successful testing, for operation at altitudes greater than 100 km above the surface of the Earth. The use of an altitude of 100 km above the surface of the Earth in this paragraph does not represent a legal demarcation between national air space and outer space under United States or international law.

Note 4 to paragraph (e): (1) A determination that a specific article (or commodity) (*e.g.,* by product serial number) is space-qualified by virtue of testing alone does not mean that other articles in the same production run or model series are space-qualified if not individually tested. (2) ''Article'' is synonymous with ''commodity,'' as defined in EAR § 772.1. (3) A specific article not designed or manufactured for use at altitudes greater than 100 km above the surface of the Earth is not space-qualified before it is successfully tested. (4) The terms ''designed'' and ''manufactured'' in this definition are synonymous with ''specially designed.''

(f) Technical data (*see* § 120.10 of this subchapter) and defense services (*see* § 120.9 of this subchapter) directly related to the defense articles enumerated in paragraphs (a) through (e) of this category and classified technical data directly related to items controlled in ECCNs 9A515, 9B515, or 9D515 and defense services using the classified technical data. Defense services include the furnishing of assistance (including training) in the integration of a satellite or spacecraft to a launch vehicle, including both planning and onsite support, regardless of the jurisdiction, ownership, or origin of the satellite or spacecraft, or whether technical data is used. It also includes the furnishing of assistance (including training) in the launch failure analysis of a satellite or spacecraft, regardless of the jurisdiction, ownership, or origin of the satellite of spacecraft, or whether technical data is used. (*See* § 125.4 of this subchapter for exemptions, and § 124.15 of this subchapter for special export controls for satellites and satellite launches.) (MT for technical data and defense services related to articles designated as such.)

Note 1 to paragraph (f): The technical data control of this paragraph does not apply to technical data directly related to articles enumerated in paragraphs (c) or (e) of this category when such articles are integrated into and included as an integral part of a satellite subject to the EAR. For controls in these circumstances, *see* ECCN 9E515. This includes that level of technical data (including marketing data) necessary and reasonable for a purchaser to have assurance that a U.S. built item intended to operate in space has been designed, manufactured, and tested in conformance with specified contract requirements (*e.g.,* operational performance, reliability, lifetime, product quality, or delivery expectations) as well as data necessary for normal orbit satellite operations, to evaluate in-orbit anomalies, and to operate and maintain associated ground station equipment (except encryption hardware).

Note 2 to paragraph (f): Activities and technology/technical data directly related to or required for the spaceflight (*e.g.,* sub-orbital, orbital, lunar, interplanetary, or otherwise beyond Earth orbit) passenger or participant experience, regardless of whether the passenger or participant experience is for space tourism, scientific or commercial research, commercial manufacturing/production activities, educational, media, or commercial transportation purposes, are not subject to the ITAR or the EAR. Such activities and technology/technical data include those directly related to or required for: (a) Spacecraft access, ingress, and egress, including the operation of all spacecraft doors, hatches, and airlocks; (b) physiological training (*e.g.,* human-rated centrifuge training or parabolic flights, pressure suit or spacesuit training/operation); (c) medical evaluation or assessment of the spaceflight passenger or participant; (d) training for and operation by the passenger or participant of health and safety related hardware (*e.g.,* seating, environmental control and life support, hygiene facilities, food preparation, exercise equipment, fire suppression, communications equipment, safety-related clothing or headgear) or emergency procedures; (e) viewing of the interior and exterior of the spacecraft or terrestrial mock-ups; (f) observing spacecraft operations (*e.g.,* pre-flight checks, landing, in-flight status); (g) training in spacecraft or terrestrial mock-ups for connecting to or operating passenger or participant equipment used for purposes other than operating the spacecraft; or (h) donning, wearing, or utilizing the passenger's or participant's flight suit, pressure suit, or spacesuit, and personal equipment.

Note 3 to paragraph (f): Neither paragraph (f) nor ECCN 9E515 controls the data transmitted to or from a satellite or spacecraft, whether real or simulated, when limited to information about the health, operational status, or function of, or measurements or raw sensor output from, the spacecraft, spacecraft payload(s), or their associated subsystems or components. Such data or technology is subject to the EAR and is designated EAR99. Examples of such data and technology, which are commonly referred to as ''housekeeping data,'' include (a) system, hardware, component configuration, and operation status information pertaining to temperatures, pressures, power, currents, voltages, and battery charges; (b) spacecraft or payload orientation or position information, such as state vector or ephemeris information; (c) payload raw mission or science output, such as images, spectra, particle measurements, or field measurements; (d) command responses; (e) accurate timing information; and (f) link budget data. The act of processing such telemetry data—*i.e.,* converting raw data into engineering units or readable products—or encrypting it does not, in and of itself, cause the telemetry data to become subject to the ITAR or to ECCN 9E515. All classified technical data directly related to items controlled in USML Category XV or ECCNs 9A515, and defense services using the classified technical data, remain subject to the ITAR. This note does not affect controls in paragraph (f), ECCN 9D515, or ECCN 9E515 on software source code or commands that control a spacecraft, payload, or associated subsystem.

(g)–(w) [Reserved]

(x) Commodities, software, and technology subject to the EAR (*see* § 120.42 of this subchapter) used in or with defense articles controlled in this category.

Note to paragraph (x): Use of this paragraph is limited to license applications for defense articles controlled in this category where the purchase documentation also includes commodities, software, or

technology subject to the EAR (*see* § 123.21(b) of this subchapter).

* * * * *

PART 124—AGREEMENTS, OFF-SHORE PROCUREMENT, AND OTHER DEFENSE SERVICES

■ 5. The authority citation for part 124 is revised to read as follows:

Authority: Secs. 2, 38, and 71, Pub. L. 90–629, 90 Stat. 744 (22 U.S.C. 2752, 2778, 2797); 22 U.S.C. 2651a; 22 U.S.C. 2776; Section 1514, Pub. L. 105–261; Pub. L. 111–266; Section 1261, Pub. L. 112–239; E.O. 13637, 78 FR 16129.

■ 6. Section 124.15 is amended by revising paragraphs (a) introductory text, (b) introductory text, (b)(2), and (c), to read as follows:

§ 124.15 Special Export Controls for Defense Articles and Defense Services Controlled Under Category XV: Space Systems and Space Launches.

(a) The export of a satellite or related item controlled by Category XV of part 121 of this subchapter or any defense service controlled by this subchapter associated with the launch in, or by nationals of, a country that is not a member of the North Atlantic Treaty Organization (NATO) or a major non-NATO ally of the United States always requires special export controls, in addition to other export controls required by this subchapter, as follows:

* * * * *

(b) Mandatory licenses for launch failure (crash) investigations or analyses of any satellite controlled pursuant to this subchapter or subject to the EAR: In the event of a failure of a launch from a foreign country (including a post liftoff failure to reach proper orbit)—

* * * * *

(2) Officials of the Department of Defense must monitor all activities associated with the investigation or analyses to insure against unauthorized transfer of technical data or services and U.S. persons must follow the procedures set forth in paragraphs (a)(1) and (a)(2) of this section.

(c) Although Public Law 105–261 does not require the application of special export controls for the launch of U.S.-origin satellites and components from or by nationals of countries that are members of NATO or major non-NATO allies, such export controls may nonetheless be applied, in addition to any other export controls required under this subchapter, as appropriate in furtherance of the security and foreign policy of the United States. Further, the export of any article or defense service controlled under this subchapter to any destination may also require that the special export controls identified in paragraphs (a)(1) and (a)(2) of this section be applied in furtherance of the security and foreign policy of the United States.

* * * * *

Rose E. Gottemoeller,

Acting Under Secretary, Arms Control and International Security, Department of State.

[FR Doc. 2014–10806 Filed 5–12–14; 8:45 am]

BILLING CODE 4710–25–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 23

[134A2100DD/AAK3000000/A0H501010.999900]

RIN 1076–AF21

Change of Address; Indian Child Welfare Act

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Final rule; technical amendment.

SUMMARY: The Bureau of Indian Affairs (BIA) is amending its regulations to reflect a change of address for filing copies of Indian Child Welfare Act (ICWA) notices to the Eastern Regional Director and to update the titles of ''Area Directors'' to ''Regional Directors.'' This technical amendment is a nomenclature change that updates and corrects BIA officials' titles and the address for filing ICWA notices to the Eastern Regional Director.

DATES: Effective May 13, 2014.

FOR FURTHER INFORMATION CONTACT: Elizabeth Appel, Director, Office of Regulatory Affairs & Collaborative Action, (202) 273–4680; *elizabeth.appel@bia.gov.*

SUPPLEMENTARY INFORMATION: This rule updates the address for the Eastern Regional Office, which was printed in error. BIA employees have ensured that notices sent to the printed address have been forwarded to the BIA authorities, but this rule will make the forwarding unnecessary. This rule also updates all references to ''Area Director'' in 25 CFR part 23 to be ''Regional Director'' in accordance with the nomenclature currently in use.

Procedural Requirements

A. Regulatory Planning and Review (E.O. 12866 and 13563)

Executive Order (E.O.) 12866 provides that the Office of Information and Regulatory Affairs (OIRA) at the Office of Management and Budget (OMB) will review all significant rules. OIRA has determined that this rule is not significant. E.O. 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The E.O. 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. This rule is also part of the Department's commitment under the Executive Order to reduce the number and burden of regulations and provide greater notice and clarity to the public.

B. Regulatory Flexibility Act

The Department of the Interior certifies that this rule will 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.*).

C. Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. It will not result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year. The rule's requirements will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. Nor will this rule have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of the U.S.-based enterprises to compete with foreign-based enterprises.

D. Unfunded Mandates Reform Act

This rule 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. A

statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

E. Takings (E.O. 12630)

Under the criteria in Executive Order 12630, this rule does not affect individual property rights protected by the Fifth Amendment nor does it involve a compensable ''taking.'' A takings implication assessment is therefore not required.

F. Federalism (E.O. 13132)

Under the criteria in Executive Order 13132, this rule has no 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. This rule ensures notification to State and local governments of a BIA official's decision to take land into trust and the right to administratively appeal such decision. This rule also ensures notification to State and local governments of an AS–IA official's decision through publication in the **Federal Register**.

G. Civil Justice Reform (E.O. 12988)

This rule complies with the requirements of Executive Order 12988. Specifically, this rule has been reviewed to eliminate errors and ambiguity and written to minimize litigation; and is written in clear language and contains clear legal standards.

H. Consultation With Indian Tribes (E.O. 13175)

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments,'' Executive Order 13175 (59 FR 22951, November 6, 2000), and 512 DM 2, we have determined there are no potential effects on federally recognized Indian tribes and Indian trust assets.

I. Paperwork Reduction Act

This rule does not contain any information collections requiring approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*

J. National Environmental Policy Act

This rule does not constitute a major Federal action significantly affecting the quality of the human environment because it is of an administrative, technical, and procedural nature.

K. Effects on the Energy Supply (E.O. 13211)

This rule is not a significant energy action under the definition in Executive Order 13211. A Statement of Energy Effects is not required.

L. Determination To Issue Final Rule Without the Opportunity for Public Comment and With Immediate Effective Date

BIA is taking this action under its authority, at 5 U.S.C. 552, to publish regulations in the **Federal Register**. Under the Administrative Procedure Act, statutory procedures for agency rulemaking do not apply ''when the agency for good cause finds . . . that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.'' 5 U.S.C. 553(b)(3)(B). BIA finds that the notice and comment procedure are impracticable, unnecessary, or contrary to the public interest, because: (1) These amendments are non-substantive; and (2) the public benefits for timely notification of a change in the official agency address, and further delay is unnecessary and contrary to the public interest. Similarly because this final rule makes no substantive changes and merely reflects a change of address and updates to titles in the existing regulations, this final rule is not subject to the effective date limitation of 5 U.S.C. 553(d).

List of Subjects in 25 CFR Part 23

Administrative practice and procedures, Child welfare, Grant programs—Indians, Grant programs—social programs, Indians, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, the Department of the Interior, Bureau of Indian Affairs, amends part 23 in Title 25 of the Code of Federal Regulations as follows:

PART 23—INDIAN CHILD WELFARE ACT

■ 1. The authority citation for part 23 continues to read as follows:

Authority: 5 U.S.C. 301; 25 U.S.C. 2, 9, 1901–1952.

■ 2. Throughout part 23, remove the word ''Area Director'' and ''Area Directors'' and add in their place the words ''Regional Director'' and ''Regional Directors'' respectively, wherever they appear.

■ 3. In § 23.11, revise paragraph (c)(1) to read as follows:

§ 23.11 Notice.

* * * * *

(c)(1) For proceedings in Alabama, Connecticut, Delaware, District of Columbia, Florida, Georgia, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, or any territory or possession of the United States, notices shall be sent to the following address: Eastern Regional Director, Bureau of Indian Affairs, 545 Marriott Drive, Suite 700, Nashville, Tennessee 37214.

* * * * *

Dated: May 1, 2014.

Kevin K. Washburn,

Assistant Secretary—Indian Affairs.

[FR Doc. 2014–10934 Filed 5–12–14; 8:45 am]

BILLING CODE 4310–W7–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2012–0168; FRL–9756–5]

Approval and Promulgation of Air Quality Implementation Plans; Utah; Revisions to UAC Rule 401—Permit: New and Modified Sources

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve State Implementation Plan revisions submitted by the State of Utah on April 17, 2008 and partially approve SIP revisions submitted by the State of Utah on September 15, 2006. The revisions contain new rules in Utah's Title 307 Rule 401 (Permit: New and Modified Sources). The intended effect of this action is to propose to approve the rules that are consistent with the Clean Air Act. This action is being taken under sections 110 and 112 of the Clean Air Act.

DATES: This final rule is effective June 12, 2014.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R08–OAR–2012–0168. All documents in the docket are listed in the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly

available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Air Program, Environmental Protection Agency (EPA), Region 8, 1595 Wynkoop Street, Denver, Colorado 80202–1129. EPA requests you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Kevin Leone, Air Program, Mailcode 8P–AR, Environmental Protection Agency, Region 8, 1595 Wynkoop Street, Denver, Colorado 80202–1129, (303) 312–6227, or *leone.kevin@epa.gov.*

SUPPLEMENTARY INFORMATION:

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Definitions

For the purpose of this document, we are giving meaning to certain words or initials as follows:

(i) The words or initials *Act* or *CAA* mean or refer to the Clean Air Act, unless the context indicates otherwise.

(ii) The words *EPA, we, us* or *our* mean or refer to the United States Environmental Protection Agency.

(iii) The initials *HAP* mean or refer to Hazardous Air Pollutant.

(iv) The initials *MACT* mean or refer to Maximum Achievable Control Technology.

(v) The initials *NAAQS* mean or refer to National Ambient Air Quality Standards.

(vi) The initials *NSR* mean or refer to New Source Review.

(vii) The initials *SIP* mean or refer to State Implementation Plan.

(viii) The words *State* or *Utah* mean the State of Utah, unless the context indicates otherwise.

(ix) The initials *UAC* mean or refer to the Utah Administrative Code.

I. What action is EPA taking?

A. Summary of Final Action

We are taking final action to approve the renumbering of R307–413–7 to R307–401–14 (Used Oil Fuel Burned for Energy Recovery) as submitted by the State of Utah on September 15, 2006; changes to the definition of ''Boiler'' in R307–401–14(1), as submitted by the State of Utah on April 17, 2008; and conditionally approve R307–401–15 and approve R307–401–16 as submitted on September 15, 2006.

EPA proposed an action for the above SIP revision submittals on June 25, 2012, (77 FR 37859.) We accepted comments from the public on this proposal from June 26, 2012, until July 25, 2012. EPA received no comments during the public comment period. In the proposed rule, we described our basis for the actions identified above. The reader should refer to the proposed rule, and sections III and IV of this preamble, for additional information regarding this final action.

EPA reviews a SIP revision submission for its compliance with the Act and EPA regulations. We evaluated the submitted SIP revisions for Utah's minor NSR regulations based upon the regulations and associated record that have been submitted and are currently before EPA. In order for EPA to ensure that Utah has regulations that meet the requirements of the CAA, the State must demonstrate the regulations are as stringent as the Act and the implementing regulations discussed in this notice. For example, EPA must have sufficient information to make a finding that the new regulations will ensure protection of the NAAQS, and noninterference with the Utah SIP control strategies, as required by section 110(l) of the Act.

II. Background

On September 20, 1999, the State of Utah submitted a renumbering and recodification of its Utah Administrative Code (UAC) rules within the Utah SIP. EPA took final action to approve portions of this submittal on February 14, 2006 (71 FR 7670). In that action EPA approved the recodification of R307–413–7 (Exemption from Notice of Intent Requirements for Used Oil Burned for Energy Recovery, previously found under R307–7–2 and 3). On September 15, 2006, the State of Utah again submitted a renumbering and recodification of its UAC rules within the Utah SIP which renumbered R307–413–7 to R307–401–14 (Used Oil Fuel Burned for Energy Recovery). We are taking final action to approve this renumbering in this action.

On April 17, 2008, the State of Utah submitted a revision to R307–401–14 which changed the definition of ''Boiler.'' We are taking final action to approve this definition change in this action.

On October 1, 1990, R307–6 (*De minimis* Emissions from Air Strippers and Soil Venting Projects) was approved into the Utah SIP. On August 14, 1998, EPA approved revisions to R307–6 (63 FR 43624). On January 8, 1999, Utah submitted substantive revisions to R307–6, which also renumbered R307–6 to R307–413–8 and R307–413–9. EPA did not act on this submittal. On September 15, 2006, Utah submitted revisions which moved R307–413–8 and R307–413–9 to R307–401–15 (Air Strippers and Soil Venting Projects) and R307–401–16 (De minimis Emissions from Soil Aeration Projects). Utah's January 8, 1999, submittal is superceded by the September 15, 2006, submittal. EPA is taking final action to conditionally approve R307–401–15 and approve R307–401–16 as submitted on September 15, 2006, in this action.

All other portions of the September 15, 2006, submittal not addressed in this action will be addressed at a later date.

III. What Are the Grounds for This Approval Action

In this final rulemaking, we are taking final action to approve the renumbering of R307–413–7 to R307–401–14 (Used Oil Fuel Burned for Energy Recovery) as submitted by the State of Utah on September 15, 2006, because this provision had been previously approved into the Utah SIP (71 FR 7670) and the revision does not contain substantive changes to the rule. We are also clarifying that R307–401–14(3) refers to the owner or operator of a boiler as described in R307–401–14(1).

We are taking final action to approve changes to the definition of ''Boiler'' in R307–401–14(1) as submitted by the State of Utah on April 17, 2008, in this action. The current federally approved definition of ''Boiler'' in R307–413–7 references Utah's solid and hazardous waste definition of ''Boiler'' in R315–1–1 as it was defined in 40 CFR 260.10, as amended on July 1, 2002. Utah's current federally approved version of R315–1–1 incorporates by reference 40 CFR 260.10, as amended on July 1, 2008. Since there is no substantive difference between 40 CFR 260.10, as amended on July 1, 2002, and 40 CFR 260.10, as amended on July 1, 2008, we are taking final action to approve this definition change in R307–401–14.

We are taking final action to conditionally approve R307–401–15 and approve R307–401–16 as submitted on September 15, 2006, in this action. CAA 110(k)(4) states ''The administrator may approve a plan revision based on a commitment of the State to adopt specific enforceable measures by a date certain, but not later than 1 year after the date of approval of the plan revision. Any such conditional approval shall be treated as a disapproval if the state fails to comply with such commitment''.

We are taking final action to conditionally approve R307–401–15

because R307–401–15(3) allows for a ''test or monitoring method approved by the executive secretary,'' which is director's discretion. Utah submitted a letter to EPA on February 24, 2012, committing to revise R307–401–15(3) to remove the executive secretary's discretion to approve alternate test or monitoring methods (see docket). Utah must submit a SIP revision to change or remove this language not later than one year after the date of final publication of on this rulemaking. If, however, Utah does not submit such a revision within this timeframe, EPA's conditional approval of R307–401–15(3) will revert to a disapproval.

R307–401–15 and R307–401–16 allows all air stripper, soil venting and soil aeration projects to be exempt from notice of intent and approval order requirements if the estimated actual air emissions from volatile organic compounds from a given project are less than 5 tons per year (R307–401–9(1)(a)) and the level of any one hazardous air pollutant (HAP) or combination of HAPs are less than the levels listed in R307–410–4(1)(d) (Toxic Screening Levels and Averaging Periods). EPA has approved similar *de minimis* thresholds for criteria pollutants in past rulemakings: The State of Idaho's permit to construct regulations, which were approved final on January 16, 2003 (68 FR 2217); and the State of Montana's exclusion for *de minimis* changes, which were approved final on February 13, 2012 (77 FR 7531). R307–401–15 and R307–401–16 contain provisions which are smaller in nature and scope than the previously approved rulemakings, as they generally only apply to the remediation of underground storage tanks. EPA finds the revisions would not interfere with any applicable requirement concerning attainment of the NAAQS, rate of progress and reasonable further progress (as defined in section 171), or any other applicable requirement of this Act.

A review of air stripper, soil venting and soil aeration projects from 2008—2010 which were exempted from notice of intent and approval order requirements under R307–401–15 and R307–401–16 show negligible criteria pollutant emissions (see docket). In addition, data from the Utah leaking underground storage tank program shows a significant decrease in the number of new cleanups initiated over the last 10 years (see docket). These provisions meet the requirements of 40 CFR 51.160 because they require prior written approval (R307–401–15(2), R307–401–16(1)) of the State and have testing requirements (R307–401–15(3)) to ensure that exempted projects do not exceed the *de minimis* thresholds as described in R307–401–9.

IV. Summary of Final Action

Based on the above discussion, EPA finds that the revisions are consistent with all CAA requirements. We are taking final action to approve the renumbering of R307–413–7 to R307–401–14 (Used Oil Fuel Burned for Energy Recovery) as submitted by the State of Utah on September 15, 2006; changes to the definition of ''Boiler'' in R307–401–14(1), as submitted by the State of Utah on April 17, 2008; and conditionally approve R307–401–15 and approve R307–401–16 as submitted on September 15, 2006.

V. Statutory and Executive Order Reviews

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994). In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 14, 2014. 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 section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: October 19, 2012

James B. Martin,

Regional Administrator Region 8. Original signature affirmed by:

Dated: April 22, 2014.

Shaun L. McGrath,

Regional Administrator, Region 8.

40 CFR part 52 is amended as follows:

PART 52 APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart TT—Utah

■ 2. Section 52.2320 is amended by adding paragraph (c)(78) to read as follows:

§ 52.2320 Identification of plan.

* * * * *

(c) * * *

(78) On April 17, 2008 the State of Utah submitted revisions to the Utah Administrative Code (UAC) R307–401–14, *Used Oil Fuel Burned for Energy Recovery.* On September 15, 2006 the State of Utah submitted revisions to the UAC R307–401–15, *Air Strippers and Soil Venting Projects,* and R307–401–16, *De minimis Emissions From Soil Aeration Projects.*

(i) Incorporation by Reference

(A) Title R307 of the Utah Administrative Code, *Environmental Quality, Air Quality,* Rule R307–401–14, *Used Oil Fuel Burned for Energy Recovery.* Effective February 8, 2008; as published in the Utah State Bulletin on December 1, 2007 and March 1, 2008.

(B) Title R307 of the Utah Administrative Code, *Environmental Quality, Air Quality,* R307–401–15, *Air Strippers and Soil Venting Projects,* and R307–401–16, *De minimis Emissions From Soil Aeration Projects.* Effective June 16, 2006; as published in the Utah State Bulletin on December 1, 2005 and July 15, 2006.

[FR Doc. 2014–10823 Filed 5–12–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R04–OAR–2012–0851; FRL–9910–64-Region 4]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Georgia; Redesignation of the Macon, Georgia, 1997 Annual Fine Particulate Matter Nonattainment Area to Attainment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correcting amendment.

SUMMARY: Environmental Protection Agency (EPA) is taking final action to approve a request submitted on June 21, 2012, by the Georgia Department of Natural Resources, through Georgia Environmental Protection Division (GA EPD), to redesignate the Macon, Georgia, fine particulate matter ($PM_{2.5}$) nonattainment area (hereafter referred to as the ''Macon Area'' or ''Area'') to attainment for the 1997 Annual $PM_{2.5}$ National Ambient Air Quality Standards (NAAQS). The Macon Area is comprised of Bibb County and a portion of Monroe County in Georgia. EPA's approval of the redesignation request is based on the determination that Georgia has met the criteria for redesignation to attainment set forth in the Clean Air Act (CAA or Act). EPA is also approving a revision to the Georgia State Implementation Plan (SIP) to include the 1997 Annual $PM_{2.5}$ maintenance plan for the Macon Area. Additionally, EPA is approving into the Georgia SIP the motor vehicle emission budgets (MVEBs) for nitrogen oxides (NO_X) and $PM_{2.5}$ for the year 2023 for the Macon Area that are included as part of Georgia's maintenance plan for the 1997 Annual $PM_{2.5}$ NAAQS. Furthermore, EPA is approving a determination that the Area is expected to maintain the 1997 Annual $PM_{2.5}$ NAAQS through the year 2024. EPA is also correcting an inadvertent error in the proposed rulemaking for this action.

DATES: This rule will be effective June 12, 2014.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2012–0851. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, i.e., 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. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Joydeb Majumder, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Joydeb Majumder may be reached by phone at (404) 562–9121 or via electronic mail at *majumder.joydeb@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. What is the background for the actions?

On June 21, 2012,[1] the Georgia Department of Natural Resources, through GA EPD, submitted a request to EPA for redesignation of the Macon Area to attainment for the 1997 Annual $PM_{2.5}$ NAAQS, and for approval of a Georgia SIP revision containing a maintenance plan for the Area.[2] On February 5, 2014, EPA proposed to redesignate the Macon Area to attainment for the 1997 Annual $PM_{2.5}$ NAAQS, and to approve, as a revision to the Georgia SIP, the State's 1997 Annual $PM_{2.5}$ NAAQS maintenance plan and the MVEBs for direct $PM_{2.5}$ and NO_X for the Macon Area included in that maintenance plan.[3] *See* 79 FR 6842. EPA also proposed to determine

[1] Although EPA received Georgia's request to redesignate the Macon Area to attainment for the 1997 Annual $PM_{2.5}$ NAAQS on June 26, 2012, along with the maintenance plan SIP submission, the official submittal date for the redesignation request and maintenance plan is the date of the cover letter, June 21, 2012.

[2] EPA designated the Macon Area as nonattainment for the annual 1997 $PM_{2.5}$ NAAQS on January 5, 2005 (70 FR 944) as supplemented on April 14, 2005 (70 FR 19844).

[3] On March 2, 2012, EPA approved, under section 172(c)(3) of the CAA, Georgia's 2002 base-year emissions inventory for the Macon Area as part of the SIP revision submitted by GA EPD to provide for attainment of the 1997 $PM_{2.5}$ NAAQS in the Area. *See* 77 FR 12724.

that the Macon Area is continuing to attain the 1997 Annual $PM_{2.5}$ NAAQS and that attainment can be maintained through 2024. EPA received no adverse comments on the February 5, 2014, proposed rulemaking and one comment supporting the proposal.

As stated in EPA's February 5, 2014, proposal notice, the 3-year design value of 13.4 micrograms per cubic meter (μg/m³) for 2009–2011 meets the $PM_{2.5}$ Annual NAAQS of 15.0 μg/m³. EPA has reviewed the most recent ambient monitoring data, which confirms that the Macon Area continues to attain the 1997 Annual $PM_{2.5}$ NAAQS beyond the 3-year attainment period of 2009–2011.

II. What are the actions EPA is taking?

In today's rulemaking, EPA is approving Georgia's redesignation request to change the legal designation of Bibb County and a portion of Monroe County in Georgia from nonattainment to attainment for the 1997 Annual $PM_{2.5}$ NAAQS, and as a revision to the Georgia SIP, the State's 1997 Annual $PM_{2.5}$ NAAQS maintenance plan and the MVEBs for direct $PM_{2.5}$ and NO_X for the Macon Area included in that maintenance plan. The maintenance plan is designed to demonstrate that the Macon Area will continue to attain the 1997 Annual $PM_{2.5}$ NAAQS through 2023. EPA's approval of the redesignation request is based on EPA's determination that the Macon Area meets the criteria for redesignation set forth in CAA, including EPA's determination that the Macon Area has attained and continues to attain the 1997 Annual $PM_{2.5}$ NAAQS and that attainment can be maintained through 2024. EPA's analyses of Georgia's redesignation request and maintenance plan are described in detail in the February 5, 2014, proposed rule. *See* 79 FR 6842.

Today, EPA is also clarifying and correcting an entry for Table 4 of EPA's February 5, 2014, proposed rule related to onroad mobile emissions. In EPA's proposed rule, the 2020 $PM_{2.5}$ onroad mobile emissions are presented as 70 tons. This was a typographical error. The 2020 $PM_{2.5}$ onroad mobile emissions should have been listed as 107 tons as presented in Table 3–14 of Georgia's June 21, 2012 submittal. Even with this change, EPA believes that it is appropriate to approve Georgia's redesignation request and maintenance plan. EPA has determined that the correction for Table 4 of EPA's February 5, 2014 proposed rule falls under the ''good cause'' exemption in section 553(b)(3)(B) of the Administrative Procedure Act which, upon finding ''good cause,'' authorizes agencies to dispense with public participation where public notice and comment procedures are impracticable, unnecessary, or contrary to the public interest. Public notice and comment for this typographical correction is unnecessary because EPA's evaluation leading to the February 5, 2014, proposal considered the correct value reported in Georgia's submittal, and therefore, the correction does not change EPA's determination that Georgia has met the requirements for the Macon Area to be redesignated to attainment for the 1997 Annual $PM_{2.5}$ NAAQS.

Subsequent to publication of the proposed rule, GA EPD notified EPA that the Georgia Board of Natural Resources had modified Georgia Rule 391–3–1–.02(2)(mmm) entitled ''NO_X Emissions from Stationary Gas Turbines and Stationary Engines used to Generate Electricity'' to exempt certain engines at data centers from the rule's NO_X limits and had repealed Georgia Rule 391–3–1–.02(2)(bbb) entitled ''Gasoline Marketing.'' GA EPD adopted Georgia Rule 391–3–1–.02(2)(mmm) as a statewide ozone control measure, and the recent amendment exempts stationary engines at data centers from the rule's NO_X emission limits provided that the engines operate for less than 500 hours per year and only for routine testing and maintenance (limited to May through September between 10 p.m. and 4 a.m.), when electric power from a utility is not available, or during internal system failures. These data centers are equipped with uninterruptable power supplies (UPSs) that supply electricity during a power outage, and the exempted engines are designed to provide power only when the UPSs malfunction. Given the nature of the exempted engines and the conditions necessary to qualify for the exemption, any emissions increase is likely negligible. The Gasoline Marketing rule, enacted to improve ozone levels in the Atlanta Area, required that fuel sold in the Atlanta ozone nonattainment area and in areas determined to have contributed to ozone levels in the nonattainment area contain reduced sulfur and have a reduced Reid Vapor Pressure. This rule applied to fuel sold in the portion of Monroe County within the Macon Area, and the projected mobile source emissions in GA EPD's maintenance plan assumed continued implementation of the rule through the maintenance period. GA EPD has subsequently provided calculations to EPA demonstrating that the repeal of the Gasoline Marketing rule increases the on-road NO_X emissions projected for 2023 in the Macon Area by approximately 0.02 tons per year (tpy) and does not change the projected emissions of SO_2 or direct $PM_{2.5}$.

EPA has concluded that the changes to the aforementioned rules do not affect the Agency's decision to approve the redesignation request and maintenance plan for the Macon Area. Any increase in emissions that may result from these modifications is expected to be minimal and well within the margin necessary to maintain attainment of the 1997 annual $PM_{2.5}$ standard. As discussed in the proposed rulemaking notice, emissions of SO_2 and NO_X in the Macon Area are expected to decrease by 93 percent (77,757 tpy to 5,397 tpy) and 38 percent (30,511 tpy to 18,903 tpy), respectively between 2007 and 2023.

III. Why is EPA taking these actions?

EPA has determined that the Macon Area has attained the 1997 Annual $PM_{2.5}$ NAAQS and has also determined that all other criteria for the redesignation of the Macon Area from nonattainment to attainment of the 1997 Annual $PM_{2.5}$ NAAQS have been met. *See* CAA section 107(d)(3)(E). One of those requirements is that the Macon Area has an approved plan demonstrating maintenance of the 1997 Annual $PM_{2.5}$ NAAQS over the ten-year period following redesignation. EPA has determined that attainment can be maintained through 2024 and is taking final action to approve the maintenance plan for the Macon Area as meeting the requirements of sections 175A and 107(d)(3)(E) of the CAA. The detailed rationale for EPA's findings and actions is set forth in the February 5, 2014 proposed rulemaking. *See* 79 FR 6842.

IV. What are the effects of these actions?

Approval of the redesignation request changes the legal designation of Bibb County and a portion of Monroe County for the 1997 Annual $PM_{2.5}$ NAAQS. EPA is modifying the regulatory table in 40 CFR 81.311 to reflect a designation of attainment for these counties. EPA is also approving, as a revision to the Georgia SIP, the State's plan for maintaining the 1997 Annual $PM_{2.5}$ NAAQS in the Macon Area. The maintenance plan includes contingency measures to remedy possible future violations of the 1997 Annual $PM_{2.5}$ NAAQS and establishes 2023 MVEBs for direct $PM_{2.5}$ and NO_X for the Macon Area. Within 24 months of the effective date of EPA's approval of the maintenance plan, the transportation partners will need to demonstrate

conformity to the new $PM_{2.5}$ and NO_X MVEBs pursuant to 40 CFR 93.104(e).

V. Final Action

EPA is taking final action to approve the redesignation and change the legal designation of Bibb County and a portion of Monroe County for the 1997 Annual $PM_{2.5}$ NAAQS. Through this action, EPA is also approving into the Georgia SIP the 1997 Annual $PM_{2.5}$ maintenance plan for the Macon Area, which includes the new 2023 $PM_{2.5}$ and NO_X MVEBs of 80.5 tons per year (tpy) and 2,187 tpy, respectively, for this Area. EPA's approval of the redesignation request is based on the Agency's determination that the Macon Area meets the criteria for redesignation set forth in CAA, including EPA's determination that the Macon Area has attained and continues to attain the 1997 Annual $PM_{2.5}$ NAAQS and that attainment can be maintained through 2024.

VI. Statutory and Executive Order Reviews

Under the CAA, redesignation of an area to attainment and the accompanying approval of the maintenance plan under CAA section 107(d)(3)(E) are actions that affect the status of geographical area and do not impose any additional regulatory requirements on sources beyond those required by state law. A redesignation to attainment does not in and of itself impose any new requirements, but rather results in the application of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For these reasons, these actions:

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

In addition, this final rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

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

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 July 14, 2014. 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* section 307(b)(2).

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, and Particulate matter.

40 CFR Part 81

Environmental protection, Air pollution control, National parks.

Dated: April 30, 2014.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

40 CFR parts 52 and 81 are amended as follows:

PART 52—[AMENDED]

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

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

Subpart L—Georgia

■ 2. Section 52.570(e) is amended by adding an entry for ''1997 Annual $PM_{2.5}$ Maintenance Plan for the Macon Area'' at the end of the table to read as follows:

§ 52.570 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED GEORGIA NON-REGULATORY PROVISIONS

Name of non-regulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approval date	Explanation
* *	* *	*	*	*
1997 Annual $PM_{2.5}$ Maintenance Plan for the Macon Area.	Bibb County and a portion of Monroe County, Macon, Georgia Nonattainment Area.	6/21/12	5/13/14 [Insert citation of publication].	.....

PART 81—[AMENDED]

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

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

■ 4. In § 81.311, the table entitled ''Georgia—$PM_{2.5}$ (Annual NAAQS)'' is amended under ''Macon, GA'' by revising the entry for ''Bibb County and a portion of Monroe County'' to read as follows:

§ 81.311 Georgia

* * * * *

GEORGIA—$PM_{2.5}$ (ANNUAL NAAQS)

Designated area	Designation [a]	
	Date [1]	Type
* * *	* * *	*
Macon, GA:		
Bibb County	This action is effective May 13, 2014	Attainment.
Monroe County (part)	This action is effective May 13, 2014	Attainment.
* * *	* * *	*

[a] Includes Indian Country located in each county or area, except as otherwise specified.
[1] This date is 90 days after January 5, 2005, unless otherwise noted.

* * * * *

[FR Doc. 2014–10842 Filed 5–12–14; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 05–263; RM–11269; DA 14–458]

Radio Broadcasting Services; Grants and Church Rock, New Mexico

AGENCY: Federal Communications Commission.

ACTION: Final rule; dismissal of petition for partial reconsideration.

SUMMARY: This document dismisses the Petition for Partial Reconsideration filed by Reynolds Technical Associates in response to the ''Request to Dismiss.'' Reynolds Technical Associates states that it is no longer interested in pursuing the Petition for Partial Reconsideration, and it certifies that there is no agreement and no consideration received or promised in exchange for such withdrawal.

DATES: Effective May 13, 2014.

ADDRESSES: Federal Communications Commission, 445 12th Street SW., Washington, DC. 20554.

FOR FURTHER INFORMATION CONTACT: Rolanda F. Smith, Media Bureau, (202) 418–2700.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Memorandum Opinion and Order,* MB Docket No. 05–263, adopted April 3, 2014, and released April 4, 2014. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center 445 12th Street SW., Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street SW., Room CY–B402, Washington, DC 20554, telephone 1–800–378–3160 or *www.BCPIWEB.com.* This document is not subject to the Congressional Review Act. (The Commission is, therefore, not required to submit a copy of this *Memorandum Opinion and Order* to the General Accounting Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A), because the Petition for Partial Reconsideration was dismissed.

Federal Communications Commission.

Peter H. Doyle,

Chief, Audio Division, Media Bureau.

[FR Doc. 2014–10260 Filed 5–12–14; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 130808694–4378–03]

RIN 0648–BD37

Magnuson-Stevens Act Provisions; Fisheries off West Coast States; Pacific Coast Groundfish Fishery; Commercial Groundfish Fishery Management Measures; Rockfish Conservation Area Boundaries for Vessels Using Bottom Trawl Gear; Correction

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

ACTION: Final rule; correcting amendment.

SUMMARY: This action contains coordinate corrections to the Rockfish

Conservation Area (RCA) boundary regulations that published in the **Federal Register** on April 17, 2014. This document corrects 2014 groundfish bottom trawl Rockfish Conservation Area boundary coordinates described in table 1 (North) that were inadvertently misreported in Rockfish Conservation Area Boundaries for Vessels Using Bottom Trawl Gear final rule.

DATES: This correcting amendment is effective May 13, 2014.

FOR FURTHER INFORMATION CONTACT: Colby Brady, 206–526–6117; *Colby.brady@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The 2013–2014 Biennial Specifications and Management Measures rule established the 2013–2014 harvest specifications and management measures for groundfish taken in the U.S. exclusive economic zone off the coasts of Washington, Oregon, and California consistent with the Magnuson-Stevens Fishery Conservation and Management Act (MSA) and the Pacific Coast Groundfish Fishery Management Plan (PCGFMP) (78 FR 580, January 3, 2013). Since 2002 NMFS has used large-scale, depth-based closures to reduce catch of overfished groundfish, while still allowing the harvest of healthy stocks to the extent possible. RCAs are gear specific closures, and apply to vessels that take and retain groundfish species. Regarding RCA coordinates, there was an error in the 2014 Limited Entry Trawl Rockfish Conservation Areas and Landing Allowances table 1 (North) coordinates published in the **Federal Register** (79 FR 21639). Three intended references to 45°46′ N. lat. as published in lines 2, 3, and 4 of table 1 (North) were not correctly specified. As published, Line 2 incorrectly specified 45°16′ N. lat., instead of the correct reference, 45°46′ N. lat.; and lines 3 and 4 incorrectly specified 45°10′ N. lat., instead of the correct reference, 45°46′ N. lat. As published, line 3 described the shoreward line, and line 4 described the seaward lines. This rule will delete line 4 and describe the range of shoreward and seaward boundary lines within line 3, consistent with the format of the rest of the table. This action is to correct the 2014 Limited Entry Trawl Rockfish Conservation Areas and Landing Allowances Table 1 (North) to part 660, subpart D as published, in order to properly reflect the trip limit table coordinates as intended by the Agency in the Trawl RCA final rule (79 FR 21639).

Classification

The Assistant Administrator (AA) for Fisheries, NOAA, finds that pursuant to 5 U.S.C.553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment would be impracticable and contrary to the public interest. This notice corrects coordinates in the 2014 Limited Entry Trawl Rockfish Conservation Areas and Landing Allowances Table 1 (North) to part 660, subpart D that were inadvertently misreported in the Rockfish Conservation Area Boundaries for Vessels Using Bottom Trawl Gear final rule. This correction must be implemented in a timely manner to avoid confusion to the public likely to be caused by the errors in the table and avoid the potential for fishing in an area that was intended to be closed for conservation purposes. It would be contrary to the public interest to delay implementation of these changes until after public notice and comment, because making this regulatory change by May 13, 2014, corrects the errors and avoids confusion created by the above-referenced table and the potential for fishing in an area intended to be closed for conservation purposes. For the reasons above, the AA finds good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effectiveness and makes this rule effective immediately upon publication.

List of Subjects in 50 CFR Part 660

Fisheries, Fishing, and Indian fisheries.

Dated: May 7, 2014.

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 660 is corrected by making the following correcting amendments:

PART 660—FISHERIES OFF WEST COAST STATES

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

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

■ 2. Table 1 (North) to part 660, subpart D, is revised to read as follows:

BILLING CODE 3510–22–P

Table 1 (North) to Part 660, Subpart D -- Limited Entry Trawl Rockfish Conservation Areas and Landing Allowances for non-IFQ Species and Pacific Whiting North of 40°10' N. Lat.

This table describes Rockfish Conservation Areas for vessels using groundfish trawl gear. This table describes incidental landing allowances for vessels registered to a Federal limited entry trawl permit and using groundfish trawl or groundfish non-trawl gears to harvest individual fishing quota (IFQ) species.

Other Limits and Requirements Apply -- Read § 660.10 - § 660.399 before using this table 04012014

	JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
Rockfish Conservation Area (RCA)[1/]:						
1 North of 48°10' N. lat.	shore - modified[2/] 200 fm line[1/]	shore - 200 fm line[1/]	shore - 150 fm line[1/]		shore - 200 fm line[1/]	shore - modified[2/] 200 fm line[1/]
2 48°10' N. lat. - 45°46' N. lat.	100 fm line[1/] - 150 fm line[1/]					
3 45°46' N. lat. - 40°10' N. lat.	100 fm line[1/] - modified[2/] 200 fm line[1/]	100 fm line[1/] - 200 fm line[1/]				100 fm line[1/] - modified[2/] 200 fm line[1/]

Selective flatfish trawl gear is required shoreward of the RCA; all bottom trawl gear (large footrope, selective flatfish trawl, and small footrope trawl gear) is permitted seaward of the RCA. Large footrope and small footrope trawl gears (except for selective flatfish trawl gear) are prohibited shoreward of the RCA. Midwater trawl gear is permitted only for vessels participating in the primary whiting season. **Vessels fishing groundfish trawl quota pounds with groundfish non-trawl gears, under gear switching provisions at § 660.140, are subject to the limited entry groundfish trawl fishery landing allowances in this table, regardless of the type of fishing gear used. Vessels fishing groundfish trawl quota pounds with groundfish non-trawl gears, under gear switching provisions at § 660.140, are subject to the limited entry fixed gear non-trawl RCA, as described in Tables 1 (North) and 1 (South) to Part 660, Subpart E.**

See § 660.60, § 660.130, and § 660.140 for Additional Gear, Trip Limit, and Conservation Area Requirements and Restrictions. See §§ 660.70-660.74 and §§ 660.76-660.79 for Conservation Area Descriptions and Coordinates (including RCAs, YRCA, CCAs, Farallon Islands, Cordell Banks, and EFHCAs).

State trip limits and seasons may be more restrictive than federal trip limits, particularly in waters off Oregon and California.

4	**Minor nearshore rockfish & Black rockfish**	300 lb/ month
5	**Whiting**	
6	midwater trawl	Before the primary whiting season: CLOSED. -- During the primary season: mid-water trawl permitted in the RCA. See §660.131 for season and trip limit details. -- After the primary whiting season: CLOSED.
7	large & small footrope gear	Before the primary whiting season: 20,000 lb/trip. -- During the primary season: 10,000 lb/trip. -- After the primary whiting season: 10,000 lb/trip.
8	**Cabezon**	
9	North of 46°16' N. lat.	Unlimited
10	46°16' N. lat. - 40°10' N. lat.	50 lb/ month
11	**Shortbelly**	Unlimited
12	**Spiny dogfish**	60,000 lb/ month
13	**Longnose skate**	Unlimited
14	**Other Fish [3/]**	Unlimited

TABLE 1 (North)

1/ The Rockfish Conservation Area is an area closed to fishing by particular gear types, bounded by lines specifically defined by latitude and longitude coordinates set out at §§ 660.71-660.74. This RCA is not defined by depth contours, and the boundary lines that define the RCA may close areas that are deeper or shallower than the depth contour. Vessels that are subject to the RCA restrictions may not fish in the RCA, or operate in the RCA for any purpose other than transiting.

2/ The "modified" fathom lines are modified to exclude certain petrale sole areas from the RCA.

3/ "Other fish" are defined at § 660.11 and include sharks (except spiny dogfish), skates (except longnose skate), ratfish, morids, grenadiers, and kelp greenling.

To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

[FR Doc. 2014–10937 Filed 5–12–14; 8:45 am]

BILLING CODE 3510–22–C

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 131119977–4381–02]

RIN 0648–BD75

Magnuson-Stevens Act Provisions; Fisheries off West Coast States; Pacific Coast Groundfish Fishery; Annual Specifications and Management Measures for the 2014 Tribal and Non-Tribal Fisheries for Pacific Whiting

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule for the 2014 Pacific whiting fishery under the authority of the Pacific Coast Groundfish Fishery Management Plan (FMP), the Magnuson Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), and the Pacific Whiting Act of 2006. This final rule announces the 2014 U.S. TAC, establishes the tribal allocation of 55,336 metric tons of Pacific whiting for 2014, establishes a set-aside for research and bycatch of 1,500 metric tons, and announces the final allocations of Pacific whiting to the non-tribal fishery for 2014.

DATES: Effective May 13, 2014.

FOR FURTHER INFORMATION CONTACT: Kevin C. Duffy (Northwest Region, NMFS), phone: 206–526–4743, and email: *kevin.duffy@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Electronic Access

This final rule is accessible via the Internet at the Office of the Federal Register Web site at *https://www.federalregister.gov.* Background information and documents are available at the NMFS West Coast Region Web site at *http://www.westcoast.fisheries.noaa.gov/fisheries/management/whiting/pacific_whiting.html* and at the Pacific Fishery Management Council's Web site at *http://www.pcouncil.org/.*

Copies of the final environmental impact statement (FEIS) for the 2013–2014 Groundfish Specifications and Management Measures are available from Donald McIsaac, Executive Director, Pacific Fishery Management

Council (Council), 7700 NE Ambassador Place, Portland, OR 97220, phone: 503–820–2280.

Background

This rule announces the Total Allowable Catch (TAC) for whiting, expressed in metric tons (mt). This is the third year that the TAC for Pacific whiting has been determined under the terms of Agreement with Canada on Pacific Hake/Whiting (the Agreement) and the Pacific Whiting Act of 2006 (the Whiting Act), 16 U.S.C. 7001–7010. The Agreement and the Act establish bilateral bodies to implement the terms of the Agreement, each with various responsibilities, including: the Joint Management Committee (JMC), which is the decision-making body; the Joint Technical Committee (JTC), which conducts the stock assessment; the Scientific Review Group (SRG), which reviews the stock assessment; and the Advisory Panel (AP), which provides stakeholder input to the JMC (The Agreement, Art. II–IV; 16 U.S.C. 7001–7005). The Agreement establishes a default harvest policy (F–40 percent with a 40/10 adjustment) and allocates 73.88 percent of the TAC to the United States and 26.12 percent of the TAC to Canada. The bilateral JMC is primarily responsible for developing a TAC recommendation to the Parties (United States and Canada). The Secretary of Commerce, in consultation with the Secretary of State, has the authority to accept or reject this recommendation.

The bilateral Joint Technical Committee (JTC) prepared the stock assessment document ''Status of Pacific hake (whiting) stock in U.S. and Canadian waters in 2014 with a management strategy evaluation'' that was completed on February 28, 2014. This assessment presents a single base-case model that depends primarily upon 10 years of an acoustic survey biomass index as well as catches for information on the scale of the current whiting stock. The 2013 survey biomass estimate presented in the 2014 assessment is 2.4 million metric tons, which is within 5 percent of the all-time high survey biomass estimate in 2003, 1.8 times the 2012 survey biomass estimate, and 4.6 times the 2011 biomass estimate. Based on all 2013 data, the assessment estimates that the stock is at 95.9 percent of unfished levels. The age-composition data from the aggregated fisheries (1975–2013) and the acoustic survey contribute to the assessment model's ability to resolve strong and weak cohorts. Both sources indicate a strong 2008 cohort (age-5 whiting), and an exceptionally strong 2010 cohort (age-3 whiting) contributing to recent increases in the survey index.

The JTC provided tables showing catch alternatives for 2014. Using the default F–40 percent harvest rule identified in the Agreement [Paragraph 1 of Article III], the median catch for 2014 would provide for a coastwide TAC of 872,424 mt. In order to provide some context to the final TAC decision, the JTC provided the median results of model runs as compared to various parameters. The probability that the fishing intensity would be above the target in 2014 is 50 percent with a catch of 825,000 mt. Using the lowest 10 percent of model estimates, there is an equal probability that the spawning biomass will be above or below 40 percent of unfished equilibrium spawning biomass with a 2014 catch near 425,000 mt. The model predicts that the probability of dropping below 10 percent of unfished biomass in 2014 is effectively zero, and that the maximum probability of the spawning stock biomass dropping below 40 percent in 2014 is 13 percent for all catch levels considered.

Until cohorts are five or six years old, the model's ability to resolve cohort strength is poor. For many of the recent above average cohorts (2005, 2006, and 2008), the size of the year class was overestimated when it was age two, compared to updated estimates as the cohort aged and more observations were available from the fishery and survey. Given this trend and an uncertain 2010 year class, additional forecast decision tables were presented last year and a conservative estimate of the 2010 year class (the lower 10 percent of the model estimated recruitment) was used to set the 2013 bilateral TAC. Survey and fishery dependent data from 2013 reveal a strong likelihood that the 2010 year class is of above average size, but there is still some uncertainty about how much above average. Because of this, the decision tables presented in 2014 continued to depict a scenario using the lower 10 percent of the estimated 2010 recruitment, along with the middle 80 percent and upper 10 percent 2010 recruitment scenarios.

The Scientific Review Group (SRG) met in Seattle, WA, on February 18–21, 2014, to review the draft stock assessment document prepared by the JTC. The SRG noted that the 2013 acoustic trawl survey resulted in a relative biomass estimate of 2,420,000 mt, a substantial increase from the 2012 survey biomass of 1,380,000 mt. The survey and the fishery were dominated by age 3 fish (76.2 percent survey; 66.9 percent fishery by numbers) from the 2010 year class, with differences due to the different selectivity of young fish to the survey vs. the fishery. The median estimated female biomass is 1,720,000 mt at the beginning of 2014, the largest in the time series since 1992. There is agreement between the most recent acoustic survey and commercial fishery age composition data, as well as the most recent acoustic survey biomass index. This alignment of data from separate sources engenders greater confidence in the 2014 assessment result.

Because of the substantial increase in the biomass compared to 2012, the SRG explored the results in more detail. They requested a sensitivity run of the model that excluded extrapolations of biomass outside the survey area. This run resulted in a 127,000 mt decrease in the harvest applying the default policy. The SRG also reviewed results of the Management Strategy Evaluation (MSE) in the assessment document. They noted that the MSE provides insight into the risks and long-term implications of strictly implementing the default harvest control rule, and suggests goals and objectives of the fishery be clarified to guide the MSE. The SRG also noted that the MSE estimates the added value of an annual survey (versus biennial) to be relatively low. However, in some circumstances, an annual survey would be very informative.

The SRG noted that, according to the model, an equal probability of being above or below the default F–40 percent harvest rate specified in the Agreement could be achieved with a catch of 825,000 mt in 2014 and 660,000 mt in 2015. They also noted that a 2014 catch of up to 500,000 mt is estimated to maintain the stock above B_{40} at the start of 2015. The SRG and the JTC recommended an available harvest level range of 336,000–626,000 mt to the JMC for 2014.

At its March 18–20, 2014, meeting, the Joint Management Committee (JMC) reviewed the advice of the Joint Technical Committee (JTC), the Scientific Review Group (SRG), and the Advisory Panel (AP), and agreed on a TAC recommendation for transmittal to the Parties.

Paragraph 1 of Article III of the Agreement directs the default harvest rate to be used unless scientific evidence demonstrates that a different rate is necessary to sustain the offshore whiting resource. The JMC noted that there is still some uncertainty about the strength of the 2010 year class, acknowledged the overall stock is dominated by the 2010 year class, and that there is currently no evidence of large recruitments in more recent year classes. Because of these factors, the

JMC did not apply the default harvest rate under the Agreement to determine a TAC for 2014. They chose to recommend a TAC of 425,000 mt for 2014, which is less than half of what the TAC would be by using the default harvest rate. This conservative approach that focused on uncertainty of the 2010 year class strength, coupled with no evidence of large recruitments in more recent year classes, was also endorsed by the AP.

The recommendation for an adjusted United States TAC of 316,206 mt for 2014 (73.88 percent of the coastwide TAC) is consistent with the best available science, provisions of the Agreement, and the Whiting Act. The recommendation was transmitted via letter to the Parties on March 20, 2014. NMFS, under delegation of authority from the Secretary of Commerce, approved the TAC recommendation of 316,206 mt for U.S. fisheries on April 11, 2014.

Tribal Fishery Allocation

This final rule establishes the tribal allocation of Pacific whiting for 2014. NMFS issued a proposed rule for the allocation and management of the 2014 tribal Pacific whiting fishery on February 28, 2014 (79 FR 11385). This action finalizes the allocation and management measures.

Since 1996, NMFS has been allocating a portion of the U.S. TAC of Pacific whiting to the tribal fishery using the process established in § 660.50(d)(1). According to § 660.55(b), the tribal allocation is subtracted from the total U.S. Pacific whiting TAC. The tribal Pacific whiting fishery is managed separately from the non-tribal whiting fishery, and is not governed by the limited entry or open access regulations or allocations.

The proposed rule described the tribal allocation as 17.5 percent of the U.S. TAC, and projected a range of potential tribal allocations for 2014 based on a range of U.S. TACs over the last 10 years, 2004 through 2013 (plus or minus 25 percent to capture variability in stock abundance). This range of TACs is 135,939 mt (2009) to 290,903 mt (2011). Applying the 25 percent variability results in a range of potential TACs from 101,954 mt to 363,629 mt. The resulting range of potential tribal allocations is 17,842 mt to 63,635 mt.

As described earlier in this preamble, the U.S. TAC for 2014 is 316,206 mt. Applying the approach described in the proposed rule, NMFS calculated that the tribal allocation implemented by this final rule is 55,336 (17.5 percent of the U.S. TAC). While the total amount of whiting to which the Tribes are entitled under their treaty right has not yet been determined, and new scientific information or discussions with the relevant parties may impact that decision, the best available scientific information to date suggests that 55,336 mt is within the likely range of potential treaty right amounts.

As with prior tribal whiting allocations, this final rule is not intended to establish any precedent for future Pacific whiting seasons, or for the determination of the total amount of whiting to which the Tribes are entitled under their treaty right. Rather, this rule adopts an interim allocation, pending the determination of the total treaty amount. That amount will be based on further development of scientific information and additional coordination and discussion with and among the coastal tribes and States of Washington and Oregon. The process of determining that amount, begun in 2008, is continuing.

Non-Tribal Allocations

This final rule establishes the non-tribal allocation for the Pacific whiting fishery. The non-tribal allocation was not included in the tribal whiting proposed rule published on February 28, 2014 (79 FR 11385) for two reasons related to timing and process. First, a recommendation on the coastwide TAC for Pacific whiting for 2014, under the terms of the Agreement with Canada, was not available until March 20, 2014. This recommendation for a U.S. TAC was approved by NMFS, under delegation of authority from the Secretary of Commerce, on April 11, 2014. Second, the non-tribal allocation is established following deductions from the U.S. TAC for the tribal allocation (55,336 mt) and set asides for research and incidental catch in non-groundfish fisheries (1,500 mt). The Council establishes the research and bycatch set-aside on an annual basis at its April meeting, based on estimates of scientific research catch and estimated bycatch mortality in non-groundfish fisheries. For 2014, the Council recommended and the West Coast Region approves a research and bycatch set-aside of 1,500 mt. These amounts are not set until the TAC is available. The non-tribal allocation is therefore being finalized in this rule.

The 2014 fishery harvest guideline (HG), or non-tribal allocation, for Pacific whiting is 259,370 mt. This amount was determined by deducting from the total U.S. TAC of 316,206 mt, the 55,336 mt tribal allocation, along with 1,500 mt for research catch and bycatch in non-groundfish fisheries. Regulations at § 660.55(i)(2) allocate the fishery HG among the non-tribal catcher/processor, mothership, and shorebased sectors of the Pacific whiting fishery. The catcher/processor sector is allocated 34 percent (88,186 mt for 2014), the mothership sector is allocated 24 percent (62,249 mt for 2014), and the shorebased sector is allocated 42 percent (108,935 mt for 2014). The fishery south of 42° N. lat. may not take more than 5,447 mt (5 percent of the shorebased allocation) prior to the start of the primary Pacific whiting season north of 42° N. lat.

The 2014 allocations of Pacific Ocean perch, canary rockfish, darkblotched rockfish, and widow rockfish to the whiting fishery were published in a final rule on January 3, 2013 (78 FR 580). The allocations to the Pacific whiting fishery for these species are described in the footnotes to Table 2.b to Part 660, Subpart C–2014.

Comments and Responses

On February 28, 2014, NMFS issued a proposed rule for the allocation and management of the 2014 tribal Pacific whiting fishery. The comment period on the proposed rule closed on March 31, 2014. During the comment period, NMFS received two letters of comment. The U.S. Department of the Interior submitted a letter of ''no comment'' associated with their review of the proposed rule.

The second letter was received from a commercial fishing organization. In their letter, they state that given past performance in the tribal fishery, and the potential economic harm to the non-tribal fishery, the proposed tribal whiting set aside is too high. They state that if the tribal allocation is set too high, and NMFS is less than effective in using their reapportionment authority to reallocate unused whiting in the tribal fishery to the non-tribal sector, then whiting will be stranded in the 2014 tribal fishery, thereby limiting the non-tribal fishery's ability to maximize harvest. They urge NMFS to aptly and effectively exercise their reapportionment authority in 2014.

Response: In determining the tribal allocation, NMFS must ensure that the tribes have the opportunity to exercise their treaty right, which is ''other applicable law'' under the Magnuson-Stevens Act. As noted above, the amount requested by the tribes appears to be within the amount to which they are entitled by treaty, as suggested by the best available science. The allocation to the tribal fishery in 2014 is 17.5 percent of the TAC, versus 23 percent of the TAC in 2013.

As the commenter has noted, the reapportionment process is available to NMFS to address the situation in which

the tribes are unable to use their full allocation. NMFS acknowledges that we should exercise our reapportionment authority effectively. To that end, NMFS will monitor both the tribal and non-tribal fishery during the season, and will increase communications with tribal representatives in order to determine, to the extent practicable, the likely harvest levels in the tribal fishery. If circumstances supporting reapportionment under NMFS' regulations arise, NMFS will be prepared to expeditiously reapportion Pacific whiting that was not harvested by the tribal fishery to the non-tribal sector, in order to manage the fishery in a manner consistent with both the implementation of the tribal treaty right and the Magnuson Stevens Act requirements.

Classification

The final Pacific whiting specifications and management measures for 2014 are issued under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (MSA), and the Pacific Whiting Act of 2006, and are in accordance with 50 CFR part 660, subparts C through G, the regulations implementing the Pacific Coast Groundfish Fishery Management Plan (PCGFMP). NMFS has determined that this rule is consistent with the national standards of the Magnuson-Stevens Act and other applicable laws. NMFS, in making the final determination, took into account the data, views, and comments received during the comment period.

NMFS has determined that the tribal whiting fishery conducted off the coast of the State of Washington is consistent, to the maximum extent practicable, with the approved coastal zone management program of the States of Washington and Oregon. NMFS has also determined that the Pacific whiting fishery, both tribal and non-tribal, is consistent, to the maximum extent practicable, with approved coastal zone management programs for the States of Washington and Oregon. The States of Washington and Oregon did not respond to the letters NMFS sent describing its determination of consistency dated February 4, 2014; therefore, consistency is inferred.

Administrative Procedure Act

Pursuant to 5 U.S.C. 553(b)(B), the NMFS Assistant Administrator finds good cause to waive prior public notice and comment and delay in effectiveness the 2014 annual harvest specifications for Pacific whiting, as delaying this rule would be contrary to the public interest. The annual harvest specifications for Pacific whiting must be implemented by the start of the primary Pacific whiting season, which begins on May 15, 2014, or the primary whiting season will effectively remain closed.

Every year, NMFS conducts a Pacific whiting stock assessment in which U.S. and Canadian scientists cooperate. The 2014 stock assessment for Pacific whiting was prepared in early 2014, as the new 2013 data—including updated total catch, length and age data from the U.S. and Canadian fisheries, and biomass indices from the Joint U.S.-Canadian acoustic/midwater trawl surveys—were not available until January, 2014. Because of this late availability of the most recent data for the assessment, and the need for time to conduct the treaty process for determining the TAC using the most recent assessment, it would not be possible to allow for notice and comment before the start of the primary Pacific whiting season on May 15.

A delay in implementing the Pacific whiting harvest specifications to allow for notice and comment would be contrary to the public interest because it would require either a shorter primary whiting season or development of a TAC without the most recent data. A shorter season could prevent the tribal and non-tribal fisheries from attaining their 2014 allocations, which would result in unnecessary short-term adverse economic effects for the Pacific whiting fishing vessels and the associated fishing communities. A TAC determined without the most recent data could fail to account for significant fluctuations in the biomass of this relatively short-lived species. To prevent these adverse effects and to allow the Pacific whiting season to commence, it is in the public interest to waive prior notice and comment.

In addition, pursuant to 5 U.S.C 553(d)(3), the NMFS Assistant Administrator finds good cause to waive the 30-day delay in effectiveness. Waiving the 30-day delay in effectiveness will not have a negative impact on any entities, as there are no new compliance requirements or other burdens placed on the fishing community with this rule. Failure to make this final rule effective at the start of the fishing year will undermine the intent of the rule, which is to promote the optimal utilization and conservation of Pacific whiting. Making this rule effective immediately would also serve the best interests of the public because it will allow for the longest possible Pacific whiting fishing season and therefore the best possible economic outcome for those whose livelihoods depend on this fishery. Because the 30-day delay in effectiveness would potentially cause significant financial harm without providing any corresponding benefits, this final rule is effective upon publication in the **Federal Register**.

The preamble to the proposed rule and this final rule serve as the small entity compliance guide required by Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. This action does not require any additional compliance from small entities that is not described in the preamble. Copies of this final rule are available from NMFS at the following Web site: *http://www.westcoast.fisheries.noaa.gov/fisheries/management/whiting/pacific_whiting.html.*

Executive Order (EO) 12866

The Office of Management and Budget has determined that this final rule is not significant for purposes of Executive Order 12866.

Executive Order 12866 can be found at *http://www.plainlanguage.gov/populartopics/regulations/eo12866.pdf.*

Regulatory Flexibility Act (RFA)

When an agency proposes regulations, the RFA requires the agency to prepare and make available for public comment an Initial Regulatory Flexibility Act (IRFA) document that describes the impact on small businesses, non-profit enterprises, local governments, and other small entities. The IRFA is to aid the agency in considering all reasonable regulatory alternatives that would minimize the economic impact on affected small entities. After the public comment period, the agency prepares a Final Regulatory Flexibility Analysis (FRFA) that takes into consideration any new information and public comments. This FRFA incorporates the IRFA, a summary of the significant issues raised by the public comments, NMFS' responses to those comments, and a summary of the analyses completed to support the action. NMFS published the proposed rule on February 28, 2014 (79 FR 11385), with a comment period through March 31, 2014. An IRFA was prepared and summarized in the Classification section of the preamble to the proposed rule. The description of this action, its purpose, and its legal basis are described in the preamble to the proposed rule and are not repeated here. The FRFA describes the impacts on small entities, which are defined in the IRFA for this action and not repeated here. Analytical requirements for the FRFA are described in Regulatory Flexibility Act, section 304(a)(1) through (5), and summarized

below. The FRFA must contain: (1) A succinct statement of the need for, and objectives of, the rule; (2) A summary of the significant issues raised by the public comments in response to the initial regulatory flexibility analysis, a summary of the assessment of the agency of such issues, and a statement of any changes made in the proposed rule as a result of such comments; (3) A description and an estimate of the number of small entities to which the rule will apply, or an explanation of why no such estimate is available; (4) A description of the projected reporting, recordkeeping and other compliance requirements of the rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record; and (5) A description of the steps the agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected.

This rule establishes the 2014 harvest specifications for Pacific whiting and the allocation of Pacific whiting for the tribal whiting fishery. This rule establishes the initial 2014 Pacific whiting allocations for the tribal fishery and the non-tribal sectors (catcher/processor, mothership, and shoreside), and the amount of Pacific whiting set aside for research and incidental catch in other fisheries. The amount of whiting allocated to these sectors is based on the U.S. TAC. From the U.S. TAC, small amounts of whiting that account for scientific research catch and for bycatch in other fisheries are deducted. The amount of the tribal allocation is also deducted directly from the TAC prior to allocations to the non-tribal sectors. The remainder is the fishery harvest guideline. This guideline is then allocated among the other three sectors as follows: 34 percent for the C/P Coop Program; 24 percent for the MS Coop Program; and 42 percent for the Shorebased IFQ Program.

In 2013, the total estimated catch of whiting by tribal and non-tribal fishermen was 233,000 mt, or 86 percent of the U.S. TAC (269,745 mt). There was a fall reapportionment of 30,000 mt of Pacific whiting from the tribal to non-tribal sectors (September 18, 2013). The tribal harvest was 4,906 mt, approximately 15 percent of the final tribal allocation of 33,205 mt. In total, non-tribal sectors harvested 98 percent of the final non-tribal allocation of 234,040 mt. This rule increases the U.S. TAC for 2014 to 316,206 mt, and establishes the tribal allocation of 17.5 percent of the U.S. TAC at 55,336 mt. After setting aside 1,500 mt for research catch and bycatch in non-groundfish fisheries, the overall non-tribal allocation for 2014 is 259,370 mt. The initial 2014 allocations to these non-tribal sectors are 27 percent higher than their 2013 initial allocations. The non-tribal allocation is 12 percent higher than the 2013 non-tribal catch.

In 2013, total Pacific whiting ex-vessel revenues earned by tribal and non-tribal fisheries reached about $61 million. If the 2014 TAC is entirely harvested, projected ex-vessel revenues would reach $82 million, based on 2013 ex-vessel prices. (Note that ex-vessel revenues do not take into account wholesale or export revenues or the costs of harvesting and processing whiting into a finished product.)

There were no significant issues raised by the public comments in response to the IRFA. However, there was one comment that referred to small entities. Noting that the highest annual tribal catch has been 34,500 mt, one association representing large fishing companies commented that the proposed tribal allocation is too high. They suggested that NMFS should be more effective in reapportioning tribal whiting to minimize the amount of whiting stranded, as the reapportioning process allows unharvested tribal allocations to be fished by non-tribal fleets, benefitting both large and small businesses. A detailed response to these comments is included in the comment and response section of this final rule.

This rule establishes a tribal allocation of 55,336 mt, which is lower than the 2013 tribal allocation of 63,205 mt. This allocation is based on NMFS consultations with the tribes upon which tribes discuss their plans with NMFS. This allocation amount is likely within the tribal treaty right to harvest. Applicable law requires NMFS to provide the tribes with the opportunity to harvest their treaty right. Should reapportionment be warranted, after discussions with the tribes, NMFS will determine the appropriate amount of fish to provide to the non-tribal fleets in accordance with applicable law.

It should be also noted that under Agreement with Canada on Pacific Hake/Whiting, as described in 77 FR 28501 (May 15, 2012), unharvested fish are not necessarily ''stranded.'' If at the end of the year, there are unharvested allocations, there are provisions for an amount of these fish to be carried over into the next year's allocation process. The Agreement states that ''[I]f, in any year, a Party's catch is less than its individual TAC, an amount equal to the shortfall shall be added to its individual TAC in the following year, unless otherwise recommended by the JMC. Adjustments under this sub-paragraph shall in no case exceed 15 percent of a Party's unadjusted individual TAC for the year in which the shortfall occurred.'' Such an adjustment was made for the 2014 fishery under the Agreement. This adjustment resulted in 13,172 mt being added to the Canadian share, for an adjusted Canadian TAC of 111,794 mt; and 37,258 mt being added to the United States share, for an adjusted United States TAC of 316,206 mt. This results in a coastwide adjusted TAC of 428,000 mt for 2014.

The entities that this rule impacts are catcher vessels in the tribal fishery, and the following in the non-tribal fishery: Catcher vessels delivering to shoreside facilities; catcher vessels delivering to mothership vessels at sea; and catcher/processor vessels. Under the RFA, the term ''small entities'' includes small businesses, small organizations, and small governmental jurisdictions. The Small Business Administration has established size criteria for all different industry sectors in the United States, including fish harvesting and fish processing businesses. On June 20, 2013, the SBA issued a final rule revising the small business size standards for several industries effective July 22, 2013 (78 FR 37398; June 20, 2013). This change affects the classification of vessels that harvest groundfish under this program. The rule increased the size standard for Finfish Fishing from $4.0 to $19.0 million, Shellfish Fishing from $4.0 to $5.0 million, and Other Marine Fishing from $4.0 to $7.0 million (Id. at 37400—Table 1). Prior to SBA's recent changes to the size standards for commercial harvesters, a business involved in both the harvesting and processing of seafood products, also referred to as a catcher/processor (C/P), was considered a small business if it met the $4.0 million criterion for commercial fish harvesting operations. Prior NMFS policy was to apply the $4 million Finfish Harvest standard to C/Ps. For purposes of this rulemaking, NMFS is applying the $19 million standard because whiting C/Ps are involved in the commercial harvest of finfish. The size standards for entities that process were not changed. A seafood processor is a small business if it is independently owned and operated, not dominant in its field of operation,

and employs 500 or fewer persons on a full time, part time, temporary, or other basis, at all its affiliated operations worldwide.

There are four tribes that can participate in the tribal whiting fishery: The Hoh, Makah, Quileute, and Quinault. The current tribal fleet is composed of 5 trawlers that either deliver to a shoreside plant or to a contracted mothership. Based on groundfish ex-vessel revenues and on tribal enrollments (the population size of each tribe), the four tribes and their fleets are considered ''small'' entities. This rule would impact vessels in the non-tribal fishery that fish for Pacific whiting. Currently, there are three non-tribal sectors in the Pacific whiting fishery: shorebased Individual Fishing Quota (IFQ) Program—Trawl Fishery; Mothership Coop (MS) Program—Whiting At-sea Trawl Fishery; and catcher-processor (C/P) Coop Program—Whiting At-sea Trawl Fishery. The Shorebased IFQ Program is composed of 138 Quota Share permits/accounts, 136 vessel accounts, and 42 first receivers. The MS Coop fishery is currently composed of a single coop, with six mothership processor permits, and 36 Mothership/Catcher-Vessel (MS/CV) endorsed permits, with one permit having two catch history assignments endorsed to it. The C/P Coop Program is composed of 10 C/P permits owned by three companies. Although there are three non-tribal sectors, many companies participate in two or more of these sectors. All mothership catcher-vessel participants participate in the shorebased IFQ sector, while two of the three catcher-processor companies also participate in both the shorebased IFQ sector and in the MS sector. Many companies own several QS accounts. After accounting for cross participation, multiple QS account holders, and for affiliation through ownership, there are 95 entities directly affected by these regulations, 82 of which are considered to be ''small'' businesses.

There are no recordkeeping requirements associated with this final rule.

This final rule directly regulates what entities can harvest whiting. This rule allocates fish between tribal harvesters (harvest vessels are small entities, tribes are small jurisdictions) and to non-tribal harvesters (a mixture of small and large businesses). Tribal fisheries are a mixture of activities that are similar to the activities that non-tribal fisheries undertake. Tribal harvests are delivered to both shoreside plants and motherships for processing. These processing facilities also process fish harvested by non-tribal fisheries.

The alternatives to the 2014 interim tribal allocation implemented by this rule are the ''No-Action'' and the ''Proposed Action (or preferred alternative).'' The preferred alternative, based on discussions with the tribes, is for NMFS to allocate 17 percent of the U.S. total allowable catch for 2014. NMFS did not consider a broader range of alternatives to the proposed allocation. The tribal allocation is based primarily on the requests of the tribes. These requests reflect the level of participation in the fishery that will allow them to exercise their treaty right to fish for whiting. Consideration of amounts lower than the tribal requests is not appropriate in this instance. As a matter of policy, NMFS has historically supported the harvest levels requested by the tribes. Based on the information available to NMFS, the tribal request is within their tribal treaty rights, and the participating tribe has on occasion shown an ability to harvest the amount of whiting requested. A higher allocation would, arguably, also be within the scope of the treaty right. However, a higher allocation would unnecessarily limit the non-tribal fishery.

A no-action alternative was considered, but the regulatory framework provides for a tribal allocation on an annual basis only. Therefore, no action would result in no allocation of Pacific whiting to the tribal sector in 2014, which would be inconsistent with NMFS' responsibility to manage the fishery consistent with the tribes' treaty rights. Given that there is a tribal request for an allocation in 2014, this alternative was rejected.

There are no significant alternatives to the rule that accomplish the stated objectives of applicable statutes and the treaties with the affected tribes that minimize any of the significant economic impact of the proposed rule on small entities. NMFS believes this final rule will not adversely affect small entities. Sector allocations are higher than sector catches in 2013, so this rule will be beneficial to both large and small entities.

No Federal rules have been identified that duplicate, overlap, or conflict with this action.

The RFA can be found at *http://www.archives.gov/federal-register/laws/regulatory-flexibility/* The NMFS Economic Guidelines that describe the RFA and EO 12866 can be found at *http://www.nmfs.noaa.gov/sfa/domes_fish/EconomicGuidelines.pdf.*

NMFS issued Biological Opinions under the ESA on August 10, 1990, November 26, 1991, August 28, 1992, September 27, 1993, May 14, 1996, and December 15, 1999, pertaining to the effects of the Pacific Coast groundfish FMP fisheries on Chinook salmon (Puget Sound, Snake River spring/summer, Snake River fall, upper Columbia River spring, lower Columbia River, upper Willamette River, Sacramento River winter, Central Valley spring, California coastal), coho salmon (Central California coastal, southern Oregon/northern California coastal), chum salmon (Hood Canal summer, Columbia River), sockeye salmon (Snake River, Ozette Lake), and steelhead (upper, middle and lower Columbia River, Snake River Basin, upper Willamette River, central California coast, California Central Valley, south/central California, northern California, southern California). These biological opinions have concluded that implementation of the FMP for the Pacific Coast groundfish fishery was not expected to jeopardize the continued existence of any endangered or threatened species under the jurisdiction of NMFS, or result in the destruction or adverse modification of critical habitat.

NMFS issued a Supplemental Biological Opinion on March 11, 2006, concluding that neither the higher observed bycatch of Chinook in the 2005 whiting fishery nor new data regarding salmon bycatch in the groundfish bottom trawl fishery required a reconsideration of its prior ''no jeopardy'' conclusion. NMFS also reaffirmed its prior determination that implementation of the Groundfish PCGFMP is not likely to jeopardize the continued existence of any of the affected ESUs. Lower Columbia River coho (70 FR 37160, June 28, 2005) and Oregon Coastal coho (73 FR 7816, February 11, 2008) were recently relisted as threatened under the ESA. The 1999 biological opinion concluded that the bycatch of salmonids in the Pacific whiting fishery were almost entirely Chinook salmon, with little or no bycatch of coho, chum, sockeye, and steelhead.

On December 7, 2012, NMFS completed a biological opinion concluding that the groundfish fishery is not likely to jeopardize non-salmonid marine species, including listed eulachon, green sturgeon, humpback whales, Steller sea lions, and leatherback sea turtles. The opinion also concludes that the fishery is not likely to adversely modify critical habitat for green sturgeon and leatherback sea turtles. An analysis included in the same document as the opinion concludes that the fishery is not likely to adversely affect green sea turtles, olive ridley sea turtles, loggerhead sea

turtles, sei whales, North Pacific right whales, blue whales, fin whales, sperm whales, Southern Resident killer whales, Guadalupe fur seals, or the critical habitat for Steller sea lions.

Steller sea lions and humpback whales are protected under the Marine Mammal Protection Act (MMPA). Impacts resulting from fishing activities proposed in this rule are discussed in the FEIS for the 2013–2014 groundfish fishery specifications and management measures. West coast pot fisheries for sablefish are considered Category II fisheries under the MMPA's List of Fisheries, indicating occasional interactions. All other west coast groundfish fisheries, including the trawl fishery, are considered Category III fisheries under the MMPA, indicating a remote likelihood of or no known serious injuries or mortalities to marine mammals. MMPA section 101(a)(5)(E) requires that NMFS authorize the taking of ESA-listed marine mammals incidental to U.S. commercial fisheries if it makes the requisite findings, including a finding that the incidental mortality and serious injury from commercial fisheries will have negligible impact on the affected species or stock. As noted above, NMFS concluded in its biological opinion for the groundfish fisheries that these fisheries were not likely to jeopardize Steller sea lions or humpback whales. The eastern distinct population segment of Steller sea lions was delisted under the ESA on November 4, 2013 (78 FR 66140). On September 4, 2013, based on its negligible impact determination dated August 28, 2013, NMFS issued a permit for 3 years to authorize the incidental taking of humpback whales by the sablefish pot fishery (78 FR 54553).

On November 21, 2012, the U.S. Fish and Wildlife Service (FWS) issued a biological opinion concluding that the groundfish fishery will not jeopardize the continued existence of the short-tailed albatross. The FWS also concurred that the fishery is not likely to adversely affect the marbled murrelet, California least tern, southern sea otter, bull trout, nor bull trout critical habitat.

Pursuant to Executive Order 13175, this final rule was developed after meaningful consultation and collaboration with tribal officials from the area covered by the FMP. Consistent with the Magnuson-Stevens Act at 16 U.S.C. 1852(b)(5), one of the voting members of the Pacific Council is a representative of an Indian tribe with federally recognized fishing rights from the area of the Council's jurisdiction. In addition, NMFS has coordinated specifically with the tribes interested in the whiting fishery regarding the issues addressed by this rule.

List of Subjects in 50 CFR Part 660

Administrative practice and procedure, American Samoa, Fisheries, Fishing, Guam, Hawaiian Natives, Indians, Northern Mariana Islands, Reporting and recordkeeping requirements.

Dated: May 6, 2014.

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 660 is amended as follows:

PART 660—FISHERIES OFF WEST COAST STATES

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

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

■ 2. In § 660.50, paragraph (f)(4) is revised to read as follows:

§ 660.50 Pacific Coast treaty Indian fisheries.

* * * * *

(f) * * *

(4) *Pacific whiting.* The tribal allocation for 2014 is 55,336 mt.

* * * * *

■ 3. Table 2a, to part 660, subpart C, is revised to read as follows:

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Table 2a. To Part 660, Subpart C- 2014, and Beyond, Specifications of OFL, ABC, ACL, ACT and Fishery Harvest guidelines(weights in metric tons).

Species	Area	OFL	ABC	ACL a/	Fishery HG b/
Arrowtooth flounder c/	Coastwide	6,912	5,758	5,758	3,671
Black d/ e/	N of 46°16' N. lat.	428	409	409	395
	S of 46°16' N. lat.	1,166	1,115	1,000	1,000
Bocaccio f/	S of 40°10' N. lat.	881	842	337	328.6
Cabezon g/ h/	46°16' to 42° N. lat.	49	47	47	47
	S of 42° N. lat.	165	158	158	158
California scorpionfish i/	S of 34°27' N. lat.	122	117	117	115
Canary rockfish j/	Coastwide	741	709	119	101.5
Chilipepper k/	S of 40°10' N. lat.	1,722	1,647	1,647	1,423
Cowcod l/	S of 40°10' N. lat.	12	9	3	2.9
Darkblotched rockfish m/	Coastwide	553	529	330	309.2
Dover sole n/	Coastwide	77,774	74,352	25,000	23,410
English sole o/	Coastwide	5,906	5,646	5,646	5,543
Lingcod p/ q/	N of 40° 10' N. lat.	3,162	2,878	2,878	2,600
	S of 40° 10' N. lat.	1,276	1,063	1,063	1,054
Longnose skate r/	Coastwide	2,816	2,692	2,000	1,928
Longspine thornyhead s/	N of 34°27' N. lat.	3,304	2,752	1,958	1,912
	S of 34°27' N. lat.			347	344
Minor nearshore rockfish north t/	N of 40°10' N. lat.	110	94	94	94
Minor shelf rockfish north u/	N of 40°10' N. lat.	2,195	1,932	968	903
Minor slope rockfish north v/	N of 40°10' N. lat.	1,553	1,414	1,160	1,098
Minor nearshore rockfish south w/	S of 40°10' N. lat.	1,160	1,001	990	990
Minor shelf rockfish south x/	S of 40°10' N. lat.	1,913	1,620	714	668.0
Minor slope rockfish south y/	S of 40°10' N. lat.	685	622	622	601
Other fish z/	Coastwide	6,802	4,697	4,697	4,520
Other flatfish aa/	Coastwide	10,060	6,982	4,884	4,682
Pacific cod bb/	Coastwide	3,200	2,221	1,600	1,191
Pacific ocean perch (POP) cc/	N of 40° 10' N. lat.	838	801	153	136.5
Pacific whiting dd/	Coastwide	825,000	dd/	dd/	259,370
Petrale sole ee/	Coastwide	2,774	2,652	2,652	2,418.0
Sablefish ff/ gg/	N of 36° N. lat.	7,158	6,535	4,349	See Table 1c
	S of 36° N. lat.			1,560	1,555
Shortbelly hh/	Coastwide	6,950	5,789	50	48
Shortspine thornyhead ii/	N of 34°27' N. lat.	2,310	2,208	1,525	1,466
	S of 34°27' N. lat.			393	351
Splitnose jj/	S of 40°10' N. lat.	1,747	1,670	1,670	1,658
Starry flounder kk/	Coastwide	1,834	1,528	1,528	1,521
Widow ll/	Coastwide	4,435	4,212	1,500	1,411
Yelloweye rockfish mm/	Coastwide	51	43	18	12.2
Yellowtail nn/	N of 40°10' N. lat.	4,584	4,382	4,382	3,681

a/ ACLs, ACTs and HGs are specified as total catch values.

b/Fishery harvest guidelines means the harvest guideline or quota after subtracting from the ACL or ACT Pacific Coast treaty Indian tribes allocations and projected catch, projected research catch, deductions for fishing mortality in non-groundfish fisheries, and deductions for EFPs.

c/ Arrowtooth flounder. The stock was last assessed in 2007 and was estimated to be at 79 percent of its unfished biomass in 2007. The OFL of 6,912 mt is based on the 2007 assessment with an $F_{30\%}$ F_{MSY} proxy. The ABC of 5,758 mt is a 17 percent reduction from the OFL (σ=0.72/P*=0.40) as it's a category 2 stock. Because the stock is above $B_{25\%}$, the ACL is set equal to the ABC. 2,087.39 mt is deducted from the ACL for the Tribal fishery (2,041 mt), the incidental open access fishery (30 mt), and research catch (16.39 mt), resulting in a fishery HG of 3,671 mt.

d/ Black rockfish north (Washington). A stock assessment was prepared for black rockfish north of 45°46' N. lat. (Cape Falcon, Oregon) in 2007. The biomass in the north was estimated to be at 53 percent of its unfished biomass in 2007. The OFL from the assessed area is based on the 2007 assessment with a harvest rate proxy of $F_{50\%}$. The resulting OFL for the area north of 46°16 N. lat. is 428 mt and is 97 percent of the OFL from the assessed area based on the area distribution of historical catch. The ABC of 409 mt for the north is a 4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. The ACL was set equal to the ABC since the stock is above $B_{40\%}$. 14 mt is deducted from the ACL for the Tribal fishery, resulting in a fishery HG of 395 mt.

e/ Black rockfish south (Oregon and California). A stock assessment was prepared for black rockfish south of 45°46 N. lat. (Cape Falcon, Oregon) to Central California in 2007. The biomass in the south was estimated to be at 70 percent of its unfished biomass in 2007. The OFL from the assessed area is based on the 2007 assessment with a harvest rate proxy of $F_{50\%}$ plus 3 percent of the OFL from the stock assessment prepared for black rockfish north of 45°46' N. lat. The resulting OFL for the area south of 46°16 N. lat. is 1,166 mt. The ABC of 1,115 mt and is a 4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. The 2013 and 2014 ACL is 1,000 mt, which maintains the constant catch strategy designed to keep the stock biomass above $B_{40\%}$. There are no deductions from the ACL thus the fishery HG is equal to the ACL. The black rockfish ACL, in the area south of 46°16' N. lat. (Columbia River), is subdivided with separate HGs being set for waters off Oregon (580 mt/58 percent) and for waters off California (420 mt/42 percent).

f/ Bocaccio. A bocaccio stock assessment update was prepared in 2011 for the bocaccio stock between the U.S.-Mexico border and Cape Blanco. The stock is managed with stock-specific harvest specifications south of 40°10' N. lat. and within the minor shelf rockfish complex north of 40°10 N. lat. Historical catch distribution of approximately 6 percent was used to apportion the assessed stock to the area north of 40°10' N. lat. The bocaccio stock was estimated to be at 26 percent of its unfished biomass in 2011. The OFL of 881 mt is based on the 2011 stock assessment STAT model with an F_{MSY} proxy of $F_{50\%}$. The ABC of 842 mt is a 4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. The 337 mt ACL is based on a rebuilding plan with a target year to rebuild of 2022 and an SPR harvest rate of 77.7 percent. 8.4 mt is deducted from the ACL for the incidental open access fishery (0.7 mt), EFP catch (6.0 mt) and research catch (1.7 mt), resulting in a fishery HG of 328.6 mt. The California recreational fishery has an HG of 172.5 mt.

g/ Cabezon (Oregon). A cabezon stock assessment was prepared in 2009. The cabezon biomass in waters off Oregon was estimated to be at 52 percent of its unfished biomass in 2009. The OFL of 49 mt was calculated using an F_{MSY} proxy of $F_{45\%}$. The ABC of 47 mt was based on a 4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 species. Because the stock is above $B_{40\%}$, the ACL is set equal to the ABC. There are no deductions from the ACL so the fishery HG is also equal to the ACL at 47 mt. Cabezon in waters off Oregon were removed from the "other fish" complex in 2011.

h/ Cabezon (California). A cabezon stock assessment was prepared in 2009. The cabezon biomass in waters off California was estimated to be at 48 percent of its unfished biomass in 2009. The OFL of 165 mt was calculated using an F_{MSY} proxy of $F_{45\%}$. The ABC of 158 mt was based on a 4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. Because the stock is above $B_{40\%}$, the ACL is set equal to the ABC. There are no deductions from the ACL so the fishery HG is also equal to the ACL at 158 mt.

i/ California scorpionfish was assessed in 2005 and was estimated to be at 80 percent of its unfished biomass in 2005. The OFL of 122 mt is based on the 2005 assessment with a harvest rate proxy of $F_{50\%}$. The ABC of 117 mt is a 4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. Because the stock is above $B_{40\%}$, the ACL is set equal to the ABC. 2 mt is deducted from the ACL for the incidental open access fishery, resulting in a fishery HG of 115 mt.

j/ Canary rockfish. A canary rockfish stock assessment update was prepared in 2011 and the stock was estimated to be at 24 percent of its unfished biomass coastwide in 2011. The coastwide OFL of 741 mt is based on the new assessment with a F_{MSY} proxy of $F_{50\%}$. The ABC of 709 mt is a 4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. The ACL of 119 mt is based on a rebuilding plan with a target year to rebuild of 2030 and

a SPR harvest rate of 88.7 percent. 17.5 mt is deducted from the ACL for the Tribal fishery (9.5 mt), the incidental open access fishery (2 mt), EFP catch (1.5 mt) and research catch (4.5 mt) resulting in a fishery HG of 101.5 mt. Recreational HGs are being specified: Washington, 3.2; Oregon 11.1 mt; and California 23 mt.

k/ Chilipepper. The coastwide chilipepper stock was assessed in 2007 and estimated to be at 70 percent of its unfished biomass coastwide in 2006. Chilipepper are managed with stock-specific harvest specifications south of 40°10 N. lat. and within the minor shelf rockfish complex north of 40°10' N. lat. Projected OFLs are stratified north and south of 40°10' N. latitude based on the average 1998-2008 assessed area catch, which is 93 percent for the area south of 40°10' N. latitude and 7 percent for the area north of 40°10' N. latitude. South of 40°10' N. lat., the OFL of 1,722 mt is based on the 2007 assessment with an F_{MSY} proxy of $F_{50\%}$. The ABC of 1,647 mt is a 4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. Because the unfished biomass is estimated to be above 40 percent of the unfished biomass, the ACL was set equal to the ABC. 224 mt is deducted from the ACL for the incidental open access fishery (5 mt), EFP fishing (210 mt), and research catch (9 mt), resulting in a fishery HG of 1,423 mt.

l/ Cowcod. A stock assessment update prepared in 2009 estimated the stock to be 5 percent of its unfished biomass in 2009. The OFLs for the Monterey and Conception areas were summed to derive the south of 40°10 N. lat. OFL of 12 mt. The ABC for the area south of 40°10' N. lat. is 9 mt. The assessed portion of the stock in the Conception Area was considered category 2, with a Conception Area contribution to the ABC of 5 mt, which is a 17 percent reduction from the OFL (σ=0.72/P*=0.40). The unassessed portion of the stock in the Monterey area was considered a category 3 stock, with a contribution to the ABC of 3 mt, which is a 31 percent reduction from the OFL (σ=1.44/P*=0.40). A single ACL of 3 mt is being set for both areas combined. The ACL of 3 mt is based on a rebuilding plan with a target year to rebuild of 2068 and an SPR rate of 82.7 percent. 0.1 mt is deducted from the ACL for the amount anticipated to be taken during research activity (0.1 mt), resulting in a fishery HG of 2.9 mt.

m/ Darkblotched rockfish. A stock assessment update was prepared in 2011, and the stock was estimated to be at 30.2 percent of its unfished biomass in 2011. The OFL is projected to be 553 mt and is based on the 2011 stock assessment with an F_{MSY} proxy of $F_{50\%}$. The ABC of 529 mt is a 4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. The ACL of 330 mt is based on a rebuilding plan with a target year to rebuild of 2025 and an SPR harvest rate of 64.9 percent. 20.8 mt is deducted from the ACL for the Tribal fishery (0.1 mt), the incidental open access fishery (18.4 mt), EFP catch (0.2 mt) and research catch (2.1 mt), resulting in a fishery HG of 309.2 mt.

n/ Dover sole. A 2011 Dover sole assessment estimated the stock to be at 83.7 percent of its unfished biomass in 2011. The OFL of 77,774 mt is based on the results of the 2011 stock assessment with an F_{MSY} proxy of $F_{30\%}$. The ABC of 74,352 mt is a 4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. Because the stock is above $B_{25\%}$ coastwide, the ACL could be set equal to the ABC. However, the ACL of 25,000 mt is set at a level below the ABC and higher than the maximum historical landed catch. 1,590 mt is deducted from the ACL for the Tribal fishery (1,497 mt), the incidental open access fishery (55 mt) and research catch (38 mt), resulting in a fishery HG of 23,410 mt.

o/ English sole. A stock assessment update was prepared in 2007. The stock was estimated to be at 116 percent of its unfished biomass in 2007. The OFL of 5,906 mt is based on the results of the 2007 assessment update with an F_{MSY} proxy of $F_{30\%}$. The ABC of 5,646 mt is a 4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. Because the stock is above $B_{25\%}$, the ACL was set equal to the ABC. 103 mt is deducted from the ACL for the Tribal fishery (91 mt), the incidental open access fishery (7 mt) and research catch (5 mt), resulting in a fishery HG of 5,543 mt.

p/ Lingcod north. A lingcod stock assessment was prepared in 2009. The lingcod biomass off Washington and Oregon was estimated to be at 62 percent of its unfished biomass in 2009. The OFL of 3,162 mt was calculated using an F_{MSY} proxy of $F_{45\%}$. The ABC of 2,878 mt was based on a 4 percent reduction from the OFL (σ=0.36/P*=0.45) for the area north of 42° N. lat. as it's a category 1 stock, and 17 percent reduction from the OFL (σ=0.72/P*=0.40) for the area between 42° N. lat. and 40°10'N. lat. as it's a category 2 stock. The ACL was set equal to the ABC. 277.7 mt is deducted from the ACL for the Tribal fishery (250 mt), the incidental open access fishery (16 mt) and research catch (11.67 mt), resulting in a fishery HG of 2,600 mt.

q/ Lingcod south . A lingcod stock assessment was prepared in 2009. The lingcod biomass off California was estimated to be at 74 percent of its unfished biomass in 2009. The OFL of 1,276 mt was calculated using an F_{MSY} proxy of $F_{45\%}$. The ABC of 1,063 mt was based on a 17 percent reduction from the OFL (σ=0.72/P*=0.40) as it's a category 2 stock. The ACL was set equal to the ABC. 9 mt is deducted from the ACL for the incidental open access fishery (7 mt) and EFP fishing (2 mt), resulting in a fishery HG of 1,054 mt.

r/ Longnose skate. A stock assessment was prepared in 2007 and the stock was estimated to be at 66 percent of its unfished biomass. The OFL of 2,816 mt is based on the 2007 stock assessment with an F_{MSY} proxy of $F_{45\%}$. The ABC of 2,692 mt is a 4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. The ACL of 2,000 mt is a fixed harvest level that provides greater access to the stock. 72.18 mt is deducted from the ACL for the Tribal fishery (56 mt), incidental open access fishery (3 mt), and research catch (13.18 mt), resulting in a fishery HG of 1,928 mt.

s/ Longspine thornyhead. A coastwide stock assessment was conducted in 2005 and the stock was estimated to be at 71 percent of its unfished biomass in 2005. A coastwide OFL of 3,304 mt is based on the 2005 stock assessment with a $F_{50\%}$ F_{MSY} proxy. The ABC of 2,752 mt is a 17 percent reduction from the OFL (σ=0.72/P*=0.40) as it's a category 2 stock. For the portion of the stock that is north of 34°27' N. lat., the ACL is 1,958 mt, and is 79 percent of the coastwide OFL for the biomass found in that area reduced by an additional 25 percent as a precautionary adjustment. 46 mt is deducted from the ACL for the Tribal fishery (30 mt), the incidental open access fishery (3 mt), and research catch (13 mt) resulting in a fishery HG of 1,912 mt. For that portion of the stock south of 34°27' N. lat. the ACL is 347 mt and is 21 percent of the coastwide OFL reduced by 50 percent as a precautionary adjustment. 3 mt is deducted from the ACL for the incidental open access fishery (2 mt), and research catch (1 mt) resulting in a fishery HG of 344 mt.

t/ Minor nearshore rockfish north. The OFL of 110 mt is the sum of the OFL contributions for the component species within the complex. The ABCs for the minor rockfish complexes are based on a sigma value of 0.72 for category 2 stocks (blue rockfish in California) and 1.44 for category 3 stocks (all others) with a P* of 0.45. The resulting ABC of 94 mt is the summed contribution of the ABCs for the component species. The ACL is set equal to the complex ABC. No deductions are made to the ACL, thus the fishery HG is equal to the ACL, which is 94 mt.

u/ Minor shelf rockfish north. The OFL of 2,195 mt is the sum of the OFL contributions for the component species within the complex. The ABCs for the minor rockfish complexes are based on a sigma value of 0.72 for category 2 stocks (greenspotted rockfish between 40°10' and 42° N. lat. and greenstriped rockfish) and 1.44 for category 3 stocks (all others) with a P* of 0.45. The resulting ABC of 1,932 mt is the summed contribution of the ABCs for the component species. The ACL of 968 mt is the same as the 2012 ACL. 65.24 mt is deducted from the ACL for the Tribal fishery (30 mt), the incidental open access fishery (26 mt), EFP catch (3 mt) and research catch (6.24 mt) resulting in a fishery HG of 902.8 mt.

v/ Minor slope rockfish north. The OFL of 1,553 mt is the sum of the OFL contributions for the component species within the complex. The ABCs for the northern minor slope rockfish complex is based on a sigma value of 0.36 for category 1 stocks (splitnose rockfish) and 1.44 for category 3 stocks (all others) with a P* of 0.45. The resulting ABC of 1,414 mt is the summed contribution of the ABCs for the component species. The ACL of 1,160 mt is the same as the 2012 ACL. 62 mt is deducted from the ACL for the Tribal fishery (36 mt), the incidental open access fishery (19 mt), EFP catch (1 mt) and research catch (6 mt), resulting in a fishery HG of 1,098 mt.

w/ Minor nearshore rockfish south. The OFL of 1,160 mt is the sum of the OFL contributions for the component species within the complex. The ABC for the southern minor nearshore rockfish complex is based on a sigma value of 0.36 for category 1 stocks (gopher rockfish north of 34°27' N. lat.), 0.72 for category 2 stocks (blue rockfish north of 34°27' N. lat.) and 1.44 for category 3 stocks (all others) with a P* of 0.45. The resulting minor nearshore rockfish south ABC, which is the summed contribution of the ABCs for the component species within the complex, is 1,001 mt. The ACL is the same as the 2012 ACL. There are no deductions from the ACL, resulting in a fishery HG of 990 mt. Blue rockfish south of 42° N. latitude has a species-specific HG of 236 mt.

x/ Minor shelf rockfish south. The OFL of 1,913 mt is the sum of the OFL contributions for the component species within the complex. The ABCs for the southern minor shelf rockfish complex is based on a sigma value of 0.72 for category 2 stocks (greenspotted and greenstriped rockfish) and 1.44 for category 3 stocks (all others) with a P* of 0.45. The resulting ABC of 1,620 mt is the summed contribution of the ABCs for the component species. The ACL of 714 mt is the same as the 2012 ACL. 46 mt is deducted from the ACL for the incidental open access fishery (9 mt), EFP catch (31 mt) and research catch (6 mt), resulting in a shelf fishery HG of 668 mt.

y/ Minor slope rockfish south. The OFL of 685 mt is the sum of the OFL contributions for the component species within the complex. The ABC for the southern minor slope rockfish complex is based on a sigma value of 0.72 for category 2 stocks (bank and blackgill rockfish) and 1.44 for category 3 stocks (all others) with a P* of 0.45. The resulting ABC of 622 mt is the summed contribution of the ABCs for the component species. The ACL is equal to the ABC. 21 mt is deducted from the ACL for the incidental open access fishery (17 mt), EFP catch (2 mt) and research catch (2 mt), resulting in a slope fishery HG of 601 mt. Blackgill rockfish has species-specific HGs: 27 mt for the limited entry fixed gear fishery; 18 mt for the open access fishery.

z/ "Other fish" is composed entirely of groundfish FMP species that are neither rockfish (family Scorpaenidae) nor flatfish, and most of these species are unassessed, with the exception of spiny dogfish, was assessed in 2011 and is a category 2 stock. The OFL of 6,802 mt is the sum of the OFL contributions for the component species within the complex. The OFL contribution for spiny dogfish is projected from the 2011 assessment using an $F_{45\%}$ F_{MSY} proxy harvest rate. The ABC of 4,697 mt is calculated by applying a P* of 0.40 and a sigma of 1.44 to the OFLs calculated for the category 3 stocks (i.e., all stocks other than spiny dogfish) and a P* of 0.30 and a sigma of 0.72 to the OFL calculated for spiny dogfish. The resulting ABC for the complex is the summed contribution of the ABCs calculated for the component stocks. The ACL is set equal to the ABC. 177 mt is deducted from the ACL for the Tribal fishery (112 mt), the incidental open access fishery (50 mt), EFP catch (3 mt) and research catch (12 mt), resulting in an "other fish" fishery HG of 4,520 mt.

aa/ "Other flatfish" are the unassessed flatfish species that do not have individual OFLs/ABCs/ACLs and include butter sole, curlfin sole, flathead sole, Pacific sand dab, rex sole, rock sole, and sand sole. The other flatfish OFL of 10,060 mt is based on the sum of the OFL contributions of the component stocks. The ABC of 6,982 mt is a 31 percent reduction from the OFL (σ=1.44/P*=0.40) as the complex is composed of category 3 stocks. The ACL of 4,884 mt is the 2011 and 2012 ACL carried forward as there have been no significant changes in the status or management of stocks within the complex. 202 mt is deducted from the ACL for the Tribal fishery (60 mt), the incidental open access fishery (125 mt), and research catch (17 mt), resulting in a fishery HG of 4,682 mt.

bb/ Pacific cod. The 3,200 mt OFL is based on the maximum level of historic landings. The ABC of 2,221 mt is a 31 percent reduction from the OFL (σ=1.44/P*=0.40) as it's a category 3 stock. The 1,600 mt ACL is the OFL reduced by 50 percent as a precautionary adjustment. 409.04 mt is deducted from the ACL for the Tribal fishery (400 mt), research fishing (7.04 mt), and the incidental open access fishery (2.0 mt), resulting in a fishery HG of 1,191 mt.

cc/ Pacific Ocean Perch. A POP stock assessment was prepared in 2011 and the stock was estimated to be at 19.1 percent of its unfished biomass in 2011. The OFL of 838 mt for the area north of 40°10 N. lat. is based on the 2011 stock assessment with an $F_{50\%}$ F_{MSY} proxy. The ABC of 801 mt is a 4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. The ACL of 153 mt is based on a rebuilding plan with a target year to rebuild of 2051 and an SPR harvest rate of 86.4 percent. 16.5 mt is deducted from the ACL for the Tribal fishery (10.9 mt), open access fishery (0.4 mt) and research catch (5.2 mt), resulting in a fishery HG of 136.5 mt.

dd/ Pacific whiting. The most recent stock assessment was prepared in January 2014. The 2014 Fishery Harvest Guideline (Fishery HG) is calculated as follows. U.S. TAC of 316,206 mt minus 55,336 mt for the Tribal allocation minus 1,500 mt for catch in research activities and as non-groundfish bycatch, resulting in a fishery harvest guideline of 259,370 mt. The TAC for Pacific whiting is established under the provisions of the Pacific Hake/Whiting Agreement with Canada and the Pacific Whiting Act of 2006, 16 U.S.C. 7001-7010, and the international exception applies. Therefore, no ABC or ACL values are provided for Pacific whiting. The 2014 OFL of 825,000 mt is based on the 2014 assessment with an F40% FMSY proxy.

ee/ Petrale sole. A petrale sole stock assessment was prepared for 2011. In 2011 the petrale sole stock was estimated to be at 18 percent of its unfished biomass. The OFL of 2,774 mt is based on the 2011 assessment with an $F_{30\%}$ F_{MSY} proxy. The ABC of 2,652 mt is a 4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. The ACL is set equal to the ABC. 234 mt is deducted from the ACL for the Tribal fishery (220 mt), the incidental open access fishery (2.4 mt), and research catch (11.6 mt), resulting in a fishery HG of 2,418 mt.

ff/ Sablefish north. A coastwide sablefish stock assessment was prepared in 2011. The coastwide sablefish biomass was estimated to be at 33 percent of its unfished biomass in 2011. The coastwide OFL of 7,158 mt is based on the 2011 stock assessment with an F_{MSY} proxy of $F_{45\%}$. The ABC of 6,535 mt is an 8.7 percent reduction from the OFL (σ=0.36/P*=0.40). The 40-10 harvest policy was applied to the ABC to derive a coastwide ACL value. Then the ACL value was apportioned north and south of 36° N. lat., using the average of annual swept area biomass (2003-2010) from the NMFS NWFSC trawl survey, with 73.6 percent going to the area north of 36° N. lat. and 26.4 percent going to the area south of 36° N. lat. The northern ACL is 4,349 mt and is reduced by 435 mt for the tribal allocation (10 percent of the ACL north of 36° N. lat.). The 435 mt Tribal allocation is reduced by 1.5 percent to account for discard mortality. Detailed sablefish allocations are shown in Table 1c.

gg/ Sablefish south. The ACL for the area south of 36° N. lat. is 1,560 mt (26.4 percent of the calculated coastwide ACL value). 5 mt is deducted from the ACL for the incidental open access fishery (2 mt) and research catch (3 mt), resulting in a fishery HG of 1,555 mt.

hh/ Shortbelly rockfish. A non-quantitative assessment was conducted in 2007. The spawning stock biomass of shortbelly rockfish was estimated at 67 percent of its unfished biomass in 2005. The OFL of 6,950 mt was recommended for the stock in 2014 with an ABC of 5,789 mt (σ=0.72 with a P* of 0.40). The 50 mt ACL is slightly

higher than recent landings and is in recognition of the stock's importance as a forage species in the California Current ecosystem. 2 mt is deducted from the ACL for research catch, resulting in a fishery HG of 48 mt.

ii/ Shortspine thornyhead. A coastwide stock assessment was conducted in 2005 and the stock was estimated to be at 63 percent of its unfished biomass in 2005. A coastwide OFL of 2,310 mt is based on the 2005 stock assessment with a $F_{50\%}$ F_{MSY} proxy. The coastwide ABC of 2,208 mt is a 4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. For the portion of the stock that is north of 34°27' N. lat., the ACL is 1,525 mt. The northern ACL is 66 percent of the coastwide OFL for the portion of the biomass found north of 34°27' N. lat. 59.22 mt is deducted from the ACL for the Tribal fishery (50 mt), the incidental open access fishery (2 mt), and research catch (7.22mt) resulting in a fishery HG of 1,466 mt for the area north of 34°27' N. lat. For that portion of the stock south of 34°27' N. lat. the ACL is 393 mt which is 34 percent of the coastwide OFL for the portion of the biomass found south of 34°27' N. lat. reduced by 50 percent as a precautionary adjustment. 42 mt is deducted from the ACL for the incidental open access fishery (41 mt), and research catch (1 mt) resulting in a fishery HG of 351 mt for the area south of 34°27' N. lat.

jj/ Splitnose rockfish. A coastwide assessment was prepared in 2009 that estimated the stock to be at 66 percent of its unfished biomass in 2009. Splitnose in the north is managed under the minor slope rockfish complex and with species-specific harvest specifications south of 40°10' N. lat. The OFLs were apportioned north and south based on the average 1916-2008 assessed area catch resulting in 64.2 percent stock-specific OFL south of 40°10' N. lat, and 35.8 percent for the contribution of splitnose rockfish to the northern minor slope rockfish complex. South of 40°10' N. lat. the OFL of 1,747 mt is based on the 2009 assessment with an F_{MSY} proxy of $F_{50\%}$. The ABC of 1,670 mt is a 4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. Because the unfished biomass is estimated to be above 40 percent of the unfished biomass, the ACL is set equal to the ABC. 12 mt is deducted from the ACL for research catch (9 mt) and EFP catch (3 mt), resulting in a fishery HG of 1,658 mt.

kk/ Starry Flounder. The stock was assessed in 2005 and was estimated to be above 40 percent of its unfished biomass in 2005. For 2013, the coastwide OFL of 1,834 mt is based on the 2005 assessment with an F_{MSY} proxy of $F_{30\%}$. The ABC of 1,528 mt is a 17 percent reduction from the OFL (σ=0.72/P*=0.40) as it's a category 2 stock. Because the stock is above $B_{25\%}$, the ACL was set equal to the ABC. 7 mt is deducted from the ACL for the Tribal fishery (2 mt), and the incidental open access fishery (5 mt), resulting in a fishery HG of 1,521 mt.

ll/ Widow rockfish. The stock was assessed in 2011 and was estimated to be at 51.1 percent of its unfished biomass in 2011. The OFL of 4,435 mt is based on the 2011 stock assessment with an $F_{50\%}$ F_{MSY} proxy. The ABC of 4,212 mt is a 5 percent reduction from the OFL (σ=0.41/P*=0.45). A unique sigma of 0.41 was calculated for widow rockfish since the estimated variance in estimated biomass was greater than the 0.36 used as a proxy for other category 1 stocks. A constant catch strategy will be used with an ACL of 1,500 mt. 89.2 mt is deducted from the ACL for the Tribal fishery (60 mt), the incidental open access fishery (89.2 mt), EFP catch (18 mt) and research catch (7.9 mt), resulting in a fishery HG of 1,411 mt.

mm/ Yelloweye rockfish. A stock assessment update was prepared in 2011. The stock was estimated to be at 21.3 percent of its unfished biomass in 2011. The 51 mt coastwide OFL was derived from the base model in the new stock assessment with an F_{MSY} proxy of $F_{50\%}$. The ABC of 43 mt is a 17 percent reduction from the OFL (σ=0.72/P*=0.40) as it's a category 2 stock. The 18 mt ACL is based on a rebuilding plan with a target year to rebuild of 2074 and an SPR harvest rate of 76.0 percent. 5.82 mt is deducted from the ACL for the Tribal fishery (2.3 mt), the incidental open access fishery (0.2 mt), EFP catch (0.02 mt) and research catch (3.3 mt) resulting in a fishery HG of 12.2 mt. Recreational HGs are being established: Washington, 2.9; Oregon, 2.6 mt; and California, 3.4 mt.

nn/ Yellowtail rockfish. A yellowtail rockfish stock assessment update was last prepared in 2005 for the area north of 40°10' N. latitude to the U.S-Canadian border. Yellowtail rockfish was estimated to be at 55 percent of its unfished biomass in 2005. The OFL of 4,584 mt is based on the 2005 stock assessment with the F_{MSY} proxy of $F_{50\%}$. The ABC of 4,382 mt is a 4 percent reduction from the OFL (σ=0.36/P*=0.45) as it's a category 1 stock. The ACL was set equal to the ABC, because the stock is above $B_{40\%}$. 701.49 mt is deducted from the ACL for the Tribal fishery (677 mt), the incidental open access fishery (3 mt), EFP catch (10 mt) and research catch (11.49 mt), resulting in a fishery HG of 3,681mt.

■ 4. In § 660.140, paragraph (d)(1)(ii)(D) is revised to read as follows:

§ 660.140 Shorebased IFQ Program.

* * * * *

(d) * * *

(1) * * *

(ii) * * *

(D) For the trawl fishery, NMFS will issue QP based on the following shorebased trawl allocations:

SHOREBASED TRAWL ALLOCATIONS

IFQ Species	Management area	2013 Shorebased trawl allocation (mt)	2014 Shorebased trawl allocation (mt)
Arrowtooth flounder		3,846.13	3,467.08
BOCACCIO	South of 40°10′ N. lat.	74.90	79.00
CANARY ROCKFISH		39.90	41.10
Chilipepper	South of 40°10′ N. lat.	1,099.50	1,067.25
COWCOD	South of 40°10′ N. lat.	1.00	1.00
DARKBLOTCHED ROCKFISH		266.70	278.41
Dover sole		22,234.50	22,234.50
English sole		6,365.03	5,255.59
Lingcod	North of 40°10′ N. lat.	1,222.57	1,151.68
Lingcod	South of 40°10′ N. lat.	494.41	472.88
Longspine thornyhead	North of 34°27′ N. lat.	1,859.85	1,811.40
Minor shelf rockfish complex	North of 40°10′ N. lat.	508.00	508.00
Minor shelf rockfish complex	South of 40°10′ N. lat.	81.00	81.00
Minor slope rockfish complex	North of 40°10′ N. lat.	776.93	776.93
Minor slope rockfish complex	South of 40°10′ N. lat.	376.11	378.63
Other flatfish complex		4,189.61	4,189.61
Pacific cod		1,125.29	1,125.29
PACIFIC OCEAN PERCH	North of 40°10′ N. lat.	109.43	112.28
Pacific Whiting		85,697	108,935
PETRALE SOLE		2,318.00	2,378.00
Sablefish	North of 36° N. lat.	1,828.00	1,988.00
Sablefish	South of 36° N. lat.	602.28	653.10
Shortspine thornyhead	North of 34°27′ N. lat.	1,385.35	1,371.12
Shortspine thornyhead	South of 34°27′ N. lat.	50.00	50.00
Splitnose rockfish	South of 40°10′ N. lat.	1,518.10	1,575.10
Starry flounder		751.50	755.50
Widow rockfish		993.83	993.83
YELLOWEYE ROCKFISH		1.00	1.00
Yellowtail rockfish	North of 40°10′ N. lat.	2,635.33	2,638.85

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Proposed Rules

Federal Register
Vol. 79, No. 92
Tuesday, May 13, 2014

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 AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1217

[Document Number AMS–FV–12–0023]

Softwood Lumber Research, Promotion, Consumer Education and Industry Information Order; Late Payment and Interest Charges on Past Due Assessments

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposal invites comments on prescribing late payment and interest charges on past due assessments under the Softwood Lumber Research, Promotion, Consumer Education and Industry Information Order (Order). The Order is administered by the Softwood Lumber Board (Board) with oversight by the U.S. Department of Agriculture (USDA). Under the Order, assessments are collected from U.S. manufacturers (domestic) and importers and used for projects to promote softwood lumber within the United States. Softwood lumber is used in products like flooring, siding and framing. This proposal would implement authority contained in the Order that allows the Board to collect late payment and interest charges on past due assessments. This action would contribute to effective administration of the program.

DATES: Comments must be received by July 14, 2014.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments may be submitted on the Internet at: *http://www.regulations.gov* or to the Promotion and Economics Division, Fruit and Vegetable Program, AMS, USDA, 1400 Independence Avenue SW., Room 1406–S, Stop 0244, Washington, DC 20250–0244; facsimile: (202) 205–2800. All comments should reference the document number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection, including name and address, if provided, in the above office during regular business hours or it can be viewed at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Maureen T. Pello, Marketing Specialist, Promotion and Economics Division, Fruit and Vegetable Program, AMS, USDA, P.O. Box 831, Beavercreek, Oregon, 97004; telephone: (503) 632–8848; facsimile (503) 632–8852; or electronic mail: *Maureen.Pello@ams.usda.gov.*

SUPPLEMENTARY INFORMATION: This proposal is issued under the Softwood Lumber Research, Promotion, Consumer Education and Industry Information Order (Order) (7 CFR part 1217). The Order is authorized under the Commodity Promotion, Research, and Information Act of 1996 (1996 Act) (7 U.S.C. 7411–7425).

Executive Order 12866 and Executive Order 13563

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules and promoting flexibility. This action has been designated as a ''non-significant regulatory action'' under section 3(f) of Executive Order 12866. Accordingly, the Office of Management and Budget has waived the review process.

Executive Order 13175

This action has been reviewed in accordance with the requirements of Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. The review reveals that this regulation would not have substantial and direct effects on Tribal governments and would not have significant Tribal implications.

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. Section 524 of the 1996 Act (7 U.S.C. 7423) provides that it shall not affect or preempt any other Federal or State law authorizing promotion or research relating to an agricultural commodity.

Under section 519 of the 1996 Act (7 U.S.C. 7418), a person subject to an order may file a written petition with USDA stating that an order, any provision of an order, or any obligation imposed in connection with an order, is not established in accordance with the law, and request a modification of an order or an exemption from an order. Any petition filed challenging an order, any provision of an order, or any obligation imposed in connection with an order, shall be filed within two years after the effective date of an order, provision, or obligation subject to challenge in the petition. The petitioner will have the opportunity for a hearing on the petition. Thereafter, USDA will issue a ruling on the petition. The 1996 Act provides that the district court of the United States for any district in which the petitioner resides or conducts business shall have the jurisdiction to review a final ruling on the petition, if the petitioner files a complaint for that purpose not later than 20 days after the date of the entry of USDA's final ruling.

Background

This proposed rule invites comments on prescribing late payment and interest charges on past due assessments under the Order. The Order is administered by the Board with oversight by USDA. Under the Order, assessments are collected from domestic manufacturers and importers and used for projects to promote softwood lumber within the United States. Softwood lumber is used in products like flooring, siding and framing. This proposal would implement authority contained in the Order and the 1996 Act that allows the Board to collect late payment and interest charges on past due assessments. This action was unanimously recommended by the Board and would contribute to effective administration of the program.

Section 1217.52(a) of the Order specifies that the Board's programs and expenses shall be paid by assessments on domestic manufacturers and importers and other income or funds available to the Board. Paragraph (l) of

that section specifies further that when a domestic manufacturer or importer fails to pay their assessments within 60 calendar days of when the assessment is due, the Board may impose a late payment charge and interest. The late payment and interest charges must be specified in regulations issued by the Secretary. All late assessments would be subject to the late payment charge and interest.

The softwood lumber program was promulgated in 2011. Assessment collection began in January 2012. Assessments on softwood lumber domestic shipments and imports are due to the Board 30 calendar days after the end of each quarter. For example, assessments for softwood lumber shipped domestically or imported during the months of January, February and March are due to the Board by April 30. Entities that domestically ship or import less than 15 million board feet annually are exempt from assessment. Additionally, assessed entities do not pay assessments on their first 15 million board feet domestically shipped or imported per year.

Assessment funds are used for promotion activities that are intended to benefit all industry members. Thus, it is important that all assessed entities pay their assessments in a timely manner. Entities who fail to pay their assessments on time would be able to reap the benefits of Board programs at the expense of others. In addition, they would be able to utilize funds for their own use that should otherwise be paid to the Board to finance Board programs.

Board Recommendation

Thus, the Board met on May 8, 2012, and unanimously recommended implementing the Order authority regarding late payment and interest charges. Specifically, the Board recommended that a late payment charge be imposed on any domestic manufacturer or importer who fails to make timely remittance to the Board of the total assessments for which such domestic manufacturer or importer is liable. Such late payment would be imposed on any assessments not received within 60 calendar days of the date they are due. This would be a one-time late payment charge equal to 10 percent of the assessments due before interest charges have accrued. The Board also recommended that 1½ percent per month interest on the outstanding balance, including any late payment and accrued interest, be added to any accounts for which payment has not been received within 60 calendar days after the assessments are due. Such interest would continue to accrue monthly until the outstanding balance is paid to the Board.

This action is expected to help facilitate program administration by providing an incentive for entities to remit their assessments in a timely manner, with the intent of creating a fair and equitable process among all assessed entities. Accordingly, a new Subpart C would be added to the Order for rules and regulations, and a new section 1217.520 would be added to Subpart C.

Initial Regulatory Flexibility Act Analysis

In accordance with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), AMS is required to examine the impact of the proposed rule on small entities. Accordingly, AMS has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions so that small businesses will not be disproportionately burdened. The Small Business Administration defines, in 13 CFR Part 121, small agricultural producers as those having annual receipts of no more than $750,000 and small agricultural service firms (domestic manufacturers and importers) as those having annual receipts of no more than $7.0 million.

According to the Board, it is estimated that there are 385 domestic manufacturers of softwood lumber in the United States. This number represents separate business entities; one business entity may include multiple sawmills. Using an average price of $384 per thousand board feet,[1] a domestic manufacturer who ships less than about 18 million board feet per year would be considered a small entity. Using 2013 data, it is estimated that 210 domestic manufacturers, or 54 percent, ship less than 18 million board feet annually.

Likewise, based on Customs and Board data, it is estimated there are 795 importers of softwood lumber. Using 2013 Customs data, about 710 importers, or about 89 percent, import less than $7.0 million worth of softwood lumber annually. Thus, for purposes of the RFA, the majority of domestic manufacturers and importers of softwood lumber would be considered small entities.

Regarding value of the commodity, with domestic production averaging about 40 billion board feet in 2013, and using an average price of $384 per thousand board feet, the average annual domestic value for softwood lumber is about $15.4 billion. According to Customs data, the average annual value for softwood lumber imports for 2013 is about $4.8 billion.

This proposed rule invites comments on prescribing late payment and interest charges on past due assessments under the Order. The Order is administered by the Board with oversight by USDA. Under the Order, assessments are collected from domestic manufacturers and importers and used for projects to promote softwood lumber within the United States. Softwood lumber is used in products like flooring, siding and framing. This rule would add a new section 1217.520 that would specify a late payment charge of 10 percent of the assessments due and interest at a rate of 1½ percent per month on the outstanding balance, including any late payment and accrued interest. This section would be included in a new Subpart C—Rules and Regulations. This action was unanimously recommended by the Board and is authorized under section 1217.52(l) of the Order and section 517(e) of the 1996 Act.

Regarding the economic impact of this proposed rule on affected entities, this action would impose no costs on domestic manufacturers and importers who pay their assessments on time. It would merely provide an incentive for entities to remit their assessments in a timely manner. For all entities who are delinquent in paying assessments, both large and small, the charges would be applied the same. As for the impact on the industry as a whole, this action would help facilitate program administration by providing an incentive for entities to remit their assessments in a timely manner, with the intent of creating a fair and equitable process among all assessed entities.

Additionally, as previously mentioned, the Order provides for an exemption for entities that domestically ship or import less than 15 million board feet annually. It is estimated that, of the 385 domestic manufacturers, 200, or 52 percent, ship less than 15 million board feet per year and are thus exempt from paying assessments under the Order. Of the 795 importers, it is estimated that 730, or 92 percent, import less than 15 million board feet per year and are also exempt from paying assessments. Thus, about 185 domestic manufacturers and 65 importers pay assessments under the Order.

Regarding alternatives, one option to the proposed action would be to

[1] Price data was obtained from Random Lengths Publications, Inc., and is a framing composite price that is designed as a broad measure of price movement in the lumber market (*www.randomlengths.com*).

maintain the status quo and not prescribe late payment and interest charges for past due assessments. However, the Board determined that implementing such charges would help facilitate program administration by encouraging entities to pay their assessments in a timely manner. The Board reviewed rates of late payment and interest charges prescribed in other research and promotion programs and concluded that a 10 percent late payment charge and interest at a rate of 1½ percent per month on the outstanding balance would be appropriate.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection and recordkeeping requirements that are imposed by the Order have been approved previously under OMB control number 0581–0264. This proposed rule would not result in a change to the information collection and recordkeeping requirements previously approved and would impose no additional reporting and recordkeeping burden on domestic manufacturers and importers of softwood lumber.

As with all Federal promotion programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. Finally, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this proposed rule.

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

Regarding outreach efforts, this action was discussed by the Board at its first meeting held in November 2011 and at six committee meetings held via teleconference during the first six months of 2012. The Board met in May 2012 and unanimously made its recommendation. All of the Board's meetings, including meetings held via teleconference, are open to the public and interested persons are invited to participate and express their views.

We have performed this initial RFA regarding the impact of this proposed action on small entities and we invite comments concerning potential effects of this action on small businesses.

While this proposed rule set forth below has not received the approval of USDA, it has been determined that it is consistent with and would effectuate the purposes of the 1996 Act.

A 60-day comment period is provided to allow interested persons to respond to this proposal. All written comments received in response to this proposed rule by the date specified will be considered prior to finalizing this action.

List of Subjects in 7 CFR Part 1217

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

For the reasons set forth in the preamble, 7 CFR part 1217 is proposed to be amended as follows:

PART 1217—SOFTWOOD LUMBER RESEARCH, PROMOTION, CONSUMER EDUCATION AND INDUSTRY INFORMATION ORDER

■ 1. The authority citation for 7 CFR part 1217 continues to read as follows:

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

■ 2. Subpart C—Rules and Regulations is added to read as follows:

Subpart C—Rules and Regulations

§ 1217.520 Late payment and interest charges for past due assessments.

(1) A late payment charge shall be imposed on any domestic manufacturer or importer who fails to make timely remittance to the Board of the total assessments for which they are liable. The late payment will be imposed on any assessments not received within 60 calendar days of the date they are due. This one-time late payment charge shall be 10 percent of the assessments due before interest charges have accrued.

(2) In addition to the late payment charge, 1½ percent per month interest on the outstanding balance, including any late payment and accrued interest, will be added to any accounts for which payment has not been received by the Board within 60 calendar days after the day assessments are due. Interest will continue to accrue monthly until the outstanding balance is paid to the Board.

Dated: May 7, 2014.

Rex A. Barnes,

Deputy Administrator.

[FR Doc. 2014–10995 Filed 5–12–14; 8:45 am]

BILLING CODE 3410–02–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Part 1016

[Docket No. CFPB–2014–0010]

RIN 3170–AA39

Amendment to the Annual Privacy Notice Requirement Under the Gramm-Leach-Bliley Act (Regulation P)

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Proposed rule with request for comment.

SUMMARY: The Bureau of Consumer Financial Protection (Bureau) is proposing to amend Regulation P, which among other things requires that financial institutions provide an annual disclosure of their privacy policies to their customers. The amendment would create an alternative delivery method for this annual disclosure, which financial institutions would be able to use under certain circumstances.

DATES: Comments must be received on or before June 12, 2014.

ADDRESSES: You may submit comments, identified by Docket No. CFPB–2014–0010 or RIN 3170–AA39, by any of the following methods:

- *Electronic: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail/Hand Delivery/Courier:* Monica Jackson, Office of the Executive Secretary, Consumer Financial Protection Bureau, 1700 G Street NW., Washington, DC 20552.

Instructions: All submissions should include the agency name and docket number or Regulatory Information Number (RIN) for this rulemaking. Because paper mail in the Washington, DC area and at the Bureau is subject to delay, commenters are encouraged to submit comments electronically. In general, all comments received will be posted without change to *http://www.regulations.gov.* In addition, comments will be available for public inspection and copying at the Bureau's offices in Washington, DC on official business days between the hours of 10 a.m. and 5 p.m. Eastern Time. You can make an appointment to inspect the documents by telephoning (202) 435–7275.

All comments, including attachments and other supporting materials, will become part of the public record and subject to public disclosure. Sensitive personal information, such as account numbers or Social Security numbers, should not be included.

FOR FURTHER INFORMATION CONTACT: Nora Rigby and Joseph Devlin, Counsels; Office of Regulations, at (202) 435–7700.

SUPPLEMENTARY INFORMATION:

I. Summary of the Proposed Rule

The Gramm-Leach-Bliley Act (GLBA) [1] mandates that financial institutions provide their customers with initial and annual notices regarding their privacy policies. If financial institutions share certain customer information with particular types of third parties, the institutions are also required to provide notice to their customers and an opportunity to opt out of the sharing. Many financial institutions currently mail printed copies of the annual GLBA privacy notices to their customers, but have expressed concern that this practice causes information overload for consumers and unnecessary expense.

In response to such concerns, the Bureau is proposing to allow financial institutions that do not engage in certain types of information-sharing activities to stop mailing an annual disclosure if they post the annual notices on their Web sites and meet certain other conditions. Specifically, the proposal would allow financial institutions to use the proposed alternative delivery method for annual privacy notices if: (1) The financial institution does not share the customer's nonpublic personal information with nonaffiliated third parties in a manner that triggers GLBA opt-out rights; (2) the financial institution does not include on its annual privacy notice an opt-out notice under section 603(d)(2)(A)(iii) of the Fair Credit Reporting Act (FCRA); (3) the financial institution's annual privacy notice is not the only notice provided to satisfy the requirements of section 624 of the FCRA; (4) the information included in the privacy notice has not changed since the customer received the previous notice; and (5) the financial institution uses the model form provided in the GLBA's implementing Regulation P. A financial institution would still be required to use the currently permitted delivery method if the institution, among other things, has changed its privacy practices or engages in information-sharing activities for which customers have a right to opt out.

In using the proposed alternative method, a financial institution would have to insert a clear and conspicuous statement at least once per year on a notice or disclosure the institution issues under any other provision of law announcing that: the annual privacy notice is available on the financial institution's Web site; it will be mailed to customers who request it by calling a toll-free telephone number; and it has not changed. The financial institution would have to continuously post the annual privacy notice in a clear and conspicuous manner on a page of its Web site, without requiring a login or similar steps to access the notice. In addition, to assist customers with limited or no access to the internet, financial institutions would have to mail annual notices promptly to customers who request them by phone.

The proposal would apply to various types of financial institutions that provide consumer financial products and services. The Bureau is seeking comment on the proposal through June 12, 2014. The Bureau is also coordinating and consulting with other agencies that have authority to issue rules implementing GLBA with regard to certain other types of financial institutions, such as securities and futures traders, as well as consulting with other agencies that enforce the GLBA.

II. Background

A. The Statute and Regulation

The GLBA was enacted into law in 1999.[2] The GLBA, among other things, is intended to provide a comprehensive framework for regulating the privacy practices of an extremely broad range of entities. ''Financial institutions'' for purposes of the GLBA include not only depository institutions and non-depository institutions providing consumer financial products or services (such as payday lenders, mortgage brokers, check cashers, debt collectors, and remittance transfer providers), but also many businesses that do not offer or provide consumer financial products or services.

Rulemaking authority to implement the GLBA privacy provisions was initially spread among many agencies. The Federal Reserve Board (Board), the Office of Comptroller of the Currency (OCC), the Federal Deposit Insurance Corporation (FDIC), and the Office of Thrift Supervision (OTS) jointly adopted final rules to implement the notice requirements of GLBA in 2000.[3] The National Credit Union Administration (NCUA), Federal Trade Commission (FTC), Securities and Exchange Commission (SEC), and Commodity Futures Trading Commission (CFTC) were part of the same interagency process, but issued their rules separately.[4] In 2009, all these agencies issued a joint final rule with a model form that financial institutions could use, at their option, to provide the required initial and annual privacy disclosures.[5]

In 2011, the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) [6] transferred GLBA privacy notice rulemaking authority from the Board, NCUA, OCC, OTS, the FDIC, and the FTC (in part) to the Bureau.[7] The Bureau then restated the implementing regulations in Regulation P, 12 CFR part 1016, in late 2011.[8]

The Bureau has the authority to promulgate GLBA privacy rules for depository institutions and many non-depository institutions. However, rulewriting authority with regard to securities and futures-related companies is vested in the SEC and CFTC, respectively, and rulewriting authority with respect to certain motor vehicle dealers is vested in the FTC.[9] The Bureau has consulted and coordinated with these agencies and with the National Association of Insurance Commissioners (NAIC) concerning the proposed alternative delivery method.[10] The Bureau has also consulted with other appropriate federal agencies, as required under Section 1022 of the Dodd-Frank Act.

1. Annual Privacy Notices

The GLBA and its implementing regulation, Regulation P,[11] require that financial institutions [12] provide consumers with certain notices

[1] 15 U.S.C. 6801 *et seq.*

[2] Public Law 106–102.

[3] 65 FR 35162 (June 1, 2000).

[4] 65 FR 31722 (May 18, 2000) (NCUA final rule); 65 FR 33646 (May 24, 2000) (FTC final rule); 65 FR 40334 (June 29, 2000) (SEC final rule); 66 FR 21252 (Apr. 27, 2001) (CFTC final rule).

[5] 74 FR 62890 (Dec. 1, 2009).

[6] Public Law 111–203, 124 Stat. 1376 (2010).

[7] Public Law 111–203, section 1093. The FTC retained rulewriting authority over any financial institution that is a person described in 12 U.S.C. 5519 (*i.e.,* motor vehicle dealers predominantly engaged in the sale and servicing of motor vehicles, the leasing and servicing of motor vehicles, or both).

[8] 76 FR 79025 (Dec. 21, 2011).

[9] 15 U.S.C 6804, 6809; 12 U.S.C. 1843(k)(4); 12 CFR 1016.1(b).

[10] In regard to any Regulation P rulemaking, section 504 of GLBA provides that each of the agencies authorized to prescribe GLBA regulations (currently the Bureau, FTC, SEC, and CFTC) ''shall consult and coordinate with the other such agencies and, as appropriate, . . . with representatives of State insurance authorities designated by the National Association of Insurance Commissioners, for the purpose of assuring, to the extent possible, that the regulations prescribed by each such agency are consistent and comparable with the regulations prescribed by the other such agencies.'' 15 U.S.C. 6804(a)(2).

[11] 12 CFR part 1016.

[12] Regulation P defines ''financial institution.'' *See* 12 CFR 1016.3(l).

describing their privacy policies. Financial institutions are generally required to first provide an initial notice of these policies, and then an annual notice to customers every year that the relationship continues.[13] (When a financial institution has a continuing relationship with the consumer, an annual privacy notice is required and the consumer is then referred to as a ''customer.'') [14] These notices describe whether and how the financial institution shares consumers' nonpublic personal information,[15] including personally identifiable financial information, with other entities, and in some cases explain how consumers can opt out of certain types of sharing. The notices also briefly describe how financial institutions protect the nonpublic personal information they collect and maintain. Financial institutions typically use U.S. postal mail to send initial and annual privacy notices to consumers.

Implementing GLBA section 503, Regulation P generally requires the initial privacy notice,[16] and also mandates that financial institutions ''provide a clear and conspicuous notice to customers that accurately reflects [their] privacy policies and practices *not less than annually* during the continuation of the customer relationship.'' [17]

Section 502 of the GLBA and Regulation P at § 1016.6(a)(6) also require that initial and annual notices inform customers of their right to opt out of certain financial institution sharing of nonpublic personal information with some types of nonaffiliated third parties. For example, customers have the right to opt out of a financial institution selling the names and addresses of its mortgage customers to an unaffiliated home insurance company and, therefore, the institution would have to provide an opt-out notice before it sells the information. On the other hand, financial institutions are not required to allow consumers to opt out of the institutions' sharing involving third-party service providers, joint marketing arrangements, maintaining and servicing accounts, securitization, law enforcement and compliance, reporting to consumer reporting agencies, and certain other activities that are specified in the statute and regulation as exceptions to the opt-out requirement.[18] If a financial institution limits its types of sharing to those which do not trigger opt-out rights, it may provide a ''simplified'' annual privacy notice to its customers that does not include opt-out information.[19]

In addition to opt-out rights under GLBA, financial institutions also may include in the annual privacy notice information about certain consumer opt-out rights under FCRA. The annual privacy disclosures under the GLBA/Regulation P and affiliate disclosures under the FCRA/Regulation V interact in two ways. First, section 603(d)(2)(A)(iii) of the FCRA excludes from the statute's definition of a consumer report [20] the sharing of certain information about a consumer among affiliates if the consumer is notified of such sharing and is given an opportunity to opt out.[21] Section 503(c)(4) of the GLBA and Regulation P, in turn, generally require financial institutions providing their customers with initial and annual privacy notices to incorporate into them any notification and opt-out disclosures provided pursuant to section 603(d)(2)(A)(iii) of the FCRA.[22]

Second, section 624 of the FCRA and Regulation V's Affiliate Marketing Rule provide that an affiliate of a financial institution that receives certain information [23] about a consumer from the financial institution may not use the information to make solicitations for marketing purposes unless the consumer is notified of such use and provided with an opportunity to opt out of that use.[24] Regulation V, in turn, permits (but does not require) financial institutions providing their customers with initial and annual privacy notices under Regulation P to incorporate any opt-out disclosures provided under section 624 of the FCRA and subpart C of Regulation V into those notices.[25]

2. Method of Delivering Annual Privacy Notices

Section 503 of the GLBA sets forth the requirement that financial institutions provide initial and annual privacy disclosures to a consumer. Specifically, it states that ''a financial institution shall provide a clear and conspicuous disclosure to such consumer, *in writing or in electronic form or other form permitted by the regulations* prescribed under section 6804 of this title, of such financial institution's policies and practices with respect to'' disclosing and protecting consumers' nonpublic personal information.[26] Although financial institutions provide most annual privacy notices by U.S. postal mail, Regulation P allows financial institutions to provide notices electronically (*e.g.,* by email) to customers with their consent.[27]

B. CFPB Streamlining Initiative

In pursuit of the Bureau's goal of reducing unnecessary or unduly burdensome regulations, in December 2011, the Bureau issued a Request for Information seeking specific suggestions from the public for streamlining regulations the Bureau had inherited from other Federal agencies (Streamlining RFI). In that RFI, the Bureau specifically identified the annual privacy notice as a potential opportunity for streamlining and solicited comment on possible alternatives to delivering the annual privacy notice.[28]

[13] 12 CFR 1016.4, 1016.5(a)(1).

[14] 12 CFR 1016.3(i).

[15] Regulation P defines ''nonpublic personal information.'' *See* 12 CFR 1016.3(p).

[16] 12 CFR 1016.4(a).

[17] 12 CFR 1016.5(a)(1) (emphasis added).

[18] 15 U.S.C. 6802(b)(2), (e); 12 CFR 1016.13, 1016.14, 1016.15.

[19] Section 1016.6(c)(5) allows financial institutions to provide ''simplified notices'' if they do not disclose, and do not wish to reserve the right to disclose, nonpublic personal information about customers or former customers to affiliates or nonaffiliated third parties except as authorized under §§ 1016.14 and 1016.15. The exceptions at §§ 1016.14 and 1016.15 track statutory exemptions and cover a variety of situations, such as maintaining and servicing the customer's account, securitization and secondary market sale, and fraud prevention. They directly exempt institutions from the opt-out requirements. The exception that includes service providers and joint marketing arrangements, at § 1016.13, is also statutory, but financial institutions that share according to this exception may not use the simplified notice, even though consumers cannot opt out of this sharing.

[20] The FCRA defines ''consumer report'' generally as ''any written, oral, or other communication of any information by a consumer reporting agency bearing on a consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living which is used or expected to be used or collected in whole or in part for the purpose of serving as a factor in establishing the consumer's eligibility for: (A) credit or insurance to be used primarily for personal, family, or household purposes; (B) employment purposes; or (C) any other purpose authorized under section 1681b of this title.'' 15 U.S.C. 1681a.

[21] 15 U.S.C. 1681a(d)(2)(A)(iii).

[22] 15 U.S.C. 6803(c)(4); 12 CFR 1016.6(a)(7).

[23] The type of information to which section 624 applies is information that would be a consumer report, but for the exclusions provided by section 603(d)(2)(A)(i), (ii), or (iii) of the FCRA (*i.e.,* a report solely containing information about transactions or experiences between the consumer and the institution making the report, communication of that information among persons related by common ownership or affiliated by corporate control, or communication of other information as discussed above).

[24] 15 U.S.C. 1681s–3 and 12 CFR pt. 1022, subpart C.

[25] 12 CFR 1022.23(b).

[26] 15 U.S.C. 6803(a) (emphasis added).

[27] 12 CFR 1016.9(a) states that a financial institution may deliver the notice electronically if the consumer agrees. After discussions with industry stakeholders, however, the Bureau believes that most consumers have not agreed to receive electronic disclosures.

[28] 76 FR 75825, 75828 (Dec. 5, 2011).

Numerous industry commenters strongly advocated eliminating or limiting the annual notice requirement. They stated that most customers ignore annual privacy notices. Even if customers do read them, according to industry stakeholders, the content of these disclosures provides little benefit, especially if customers have no right to opt out of information sharing because the financial institution does not share nonpublic personal information in a way that triggers such rights. Financial institutions argued that mailing these notices imposes significant costs and that there are other ways of conveying to customers the information in the written notices just as effectively but at a lower cost. Several industry commenters suggested that if an institution's privacy notice has not changed, the institution should be allowed to communicate on the consumer's periodic statement, via email, or by some other cost-effective means that the annual privacy notice is available on its Web site or upon request, by phone.[29]

A banking industry trade association and other industry commenters suggested that the Bureau eliminate or ease the annual notice requirement for financial institutions if their privacy policies have not changed and they do not share nonpublic personal information beyond the exceptions allowed by the GLBA (*e.g.,* sharing nonpublic personal information with the servicer of an account). They argued that the GLBA exceptions were crafted to allow what Congress viewed as non-problematic sharing and, therefore, the law does not permit consumers to opt out of such sharing. The need for an annual notice is thus less evident if a financial institution only shares nonpublic personal information pursuant to one of these exceptions. The trade association estimated that 75% of banks do not share beyond these exceptions and do not change their notices from year to year.

Consumer advocacy groups generally stated that customers benefit from financial institutions providing them with printed annual privacy notices, which may remind customers of privacy rights that they may not have exercised previously. Consumer representatives argued that these notices make customers aware of their privacy rights in regard to financial institutions, even if they have no opt-out rights. One compliance company commenter agreed with the consumer groups' view of the importance of the notices. One advocacy group suggested that a narrow easing of annual notice requirements where a financial institution shares information only with affiliates might not be objectionable, although it did not support changing the current requirements. The Bureau did not receive any comment on the annual privacy notice change from privacy advocacy groups.

C. Understanding the Effects of Certain Deposit Regulations—Study

In November of 2013, the Bureau published a study assessing the effects of certain deposit regulations on financial institutions' operations.[30] This study provided operational insights from seven banks about their annual privacy notices.[31] Many of these banks use third-party vendors, who design or distribute the notices on their behalf. All seven participants provided the annual notice as a separate mailing, which resulted in higher costs for postage, materials, and labor than if the notice were mailed with other material. Some financial institutions apparently send separate mailings to ensure that their disclosures are ''clear and conspicuous,'' [32] although 2009 guidance from the eight agencies promulgating the model privacy form explained that a separate mailing is not required.[33] This separate mailing practice contrasts with the usual financial institution preference (particularly for smaller study participants) to bundle mailings with monthly statements. Indeed, subsequent Bureau outreach suggests that many financial institutions do mail the annual privacy notice with other materials. Finally, while the study participants echoed the sentiment that few customers read privacy notices, participant banks with call centers also reported that after they send annual notices, the number of customers who call about the banks' privacy policies increases.

D. Further Outreach

In addition to the consultations with other government agencies discussed above, while preparing this proposed rule the Bureau conducted further outreach to industry and consumer advocate stakeholders. The Bureau held meetings with consumer groups, including groups and participants with a specific interest in privacy issues. The Bureau also held meetings with industry groups that represent institutions that must comply with the annual privacy notice requirement, including banks, credit unions, mortgage servicers, and debt buyers.

As with the responses to the Streamlining RFI, the consumer groups generally expressed the view that mailed privacy notices were useful, even when no opt-out rights were present, and that changes were not necessary. Among other comments, they suggested that the Bureau promote the use of the Regulation P model form. The industry participants also generally expressed similar views to those expressed by industry in response to the Streamlining RFI. They supported creation of an alternative delivery method for annual privacy notices.[34]

E. Privacy Considerations

In developing the proposal, the Bureau considered its potential impact on consumer privacy. The proposal would not affect the collection or use of consumers' nonpublic personal information by financial institutions. The proposal would expand the permissible methods by which financial institutions subject to Regulation P may deliver annual privacy notices to their customers in limited circumstances. Among other limitations, it would not expand the permissible delivery methods when financial institutions make various types of changes to their annual privacy notices or when their annual privacy notices afford customers the right to opt out of the sharing of their nonpublic personal information by financial institutions. The proposal is

[29] On a related issue, industry commenters stated that the annual notice causes confusion and unnecessary opt-out requests from customers who do not recall that they have already opted out in a previous year. As stated in the Supplementary Information to the Final Model Privacy Form Under the Gramm-Leach-Bliley Act, a financial institution is free to provide additional information in other, supplemental materials to customers if it wishes to do so. *See* 74 FR 62890, 62908 (Dec. 1, 2009). A financial institution could include supplemental materials advising those customers who previously opted out that they do not need to opt out again.

[30] Consumer Financial Protection Bureau, ''*Understanding the Effects of Certain Deposit Regulations on Financial Institutions' Operations: Findings on Relative Costs for Systems, Personnel, and Processes at Seven Institutions''* (Nov. 2013), *available at http://files.consumerfinance.gov/f/201311_cfpb_report_findings-relative-costs.pdf.*

[31] Information collected for the study may be used to assist the Bureau in its investigations of ''the effects of a potential or existing regulation on the business decisions of providers.'' OMB Information Request—Control Number: 3170–0032.

[32] 15 U.S.C. 6803 (''[In the initial and annual privacy notices] a financial institution shall provide a clear and conspicuous disclosure . . .''); 12 CFR 1016.3(b)(1) (defining ''clear and conspicuous'' as ''reasonably understandable and designed to call attention to the nature and significance of the information in the notice.'')

[33] *See* 74 FR 62890, 62897–62898.

[34] Recently Congress considered proposed legislation that would provide burden relief as to annual privacy notices, though no law has been enacted. *See, e.g.,* H.R. 749, passed by the House and referred to the Senate in March of 2013; and S. 635, introduced in the Senate in late 2013.

designed to ensure that when the alternative delivery method is used, customers would continue to have access to clear and conspicuous annual privacy notices.

III. Legal Authority

The Bureau is issuing this proposed rule pursuant to its authority under section 504 of the GLBA, as amended by section 1093 of the Dodd-Frank Act.[35] The Bureau is also issuing this proposed rule pursuant to its authority under sections 1022 and 1061 of the Dodd-Frank Act.[36]

Prior to July 21, 2011, rulemaking authority for the privacy provisions of the GLBA was shared by eight federal agencies: the Board, the FDIC, the FTC, the NCUA, the OCC, the OTS, the SEC, and the CFTC. The Dodd-Frank Act amended a number of Federal consumer financial laws, including the GLBA. Among other changes, the Dodd-Frank Act transferred rulemaking authority for most of Subtitle A of Title V of the GLBA, with respect to financial institutions described in section 504(a)(1)(A) of the GLBA, from the Board, FDIC, FTC, NCUA, OCC, and OTS (collectively, the transferor agencies) to the Bureau, effective July 21, 2011.

IV. Section-by-Section Analysis

Section 1016.9—Delivering Privacy and Opt-Out Notices

Existing § 1016.9 describes how a financial institution must provide both the initial notice required by § 1016.4 and the annual notice required by § 1016.5. Specifically, § 1016.9(a) requires the notice to be provided so that each consumer can reasonably be expected to receive actual notice in writing or, if the consumer agrees, electronically. Section 1016.9(b) provides examples of delivery that would result in reasonable expectation of actual notice, including hand delivery, delivery by mail, or electronic delivery for consumers who conduct transactions electronically. Section 1016.9(c) provides examples regarding reasonable expectation of actual notice that apply to annual notices only.

The Bureau believes that use of the alternative delivery method by financial institutions that meet the requirements discussed below is likely to reduce information overload, specifically by eliminating duplicative paper privacy notices in situations in which the customer generally has no ability to opt out of the financial institution's information sharing.[37] Moreover, the Bureau believes that the proposed rule's alternative delivery method would be likely to decrease the burden on financial institutions of delivering notices,[38] while generally continuing to require delivery of notices pursuant to the existing requirements in situations in which customers can opt out of information sharing. In response to the Streamlining RFI, a banking industry trade association estimated that 75% of banks do not change their notices from year to year and do not share information in a way that gives rise to customer opt-out rights. Accordingly, the Bureau believes that a large number of banks would be able to use the proposed alternative delivery method. Bureau outreach also suggests that a large majority of credit unions and many non-depository financial institutions would benefit from being able to use the alternative delivery method. In addition, because small financial institutions appear to be less likely to share their customers' nonpublic personal information in a way that triggers customers' opt-out rights, it is likely that many of them could decrease their costs through the use of the alternative delivery method.

Under the alternative delivery method, customers would have access via financial institutions' Web sites (or by postal mail on request) to annual privacy notices that use the model form, that generally do not inform customers of any right to opt out, and that convey the same information as in previous notices. Further, financial institutions would be required to post their privacy notice continuously on their Web sites and thus customers would be able to access the privacy notice throughout the year rather than waiting for an annual mailing.[39] Financial institutions would be required to deliver to customers an annual reminder, on another notice or disclosure, of the availability of the privacy notice on the institution's Web site. In light of these considerations, the Bureau believes that where the conditions set forth in the proposed rule are satisfied, any incremental benefit in terms of customers' awareness of privacy issues that might accrue from requiring delivery pursuant to the existing methods of the annual privacy notice could be outweighed by the costs of providing the notice, costs that ultimately may be passed through to customers. The Bureau has determined that the specific language of section 503(a) of the GLBA grants some latitude in specifying by rule the method of conveying the annual notices, so long as a ''clear and conspicuous disclosure'' is provided ''in writing or in electronic form or other form permitted by the regulations.'' This statutory interpretation would apply only to the specific type of disclosure involved in the limited circumstances proposed pursuant to the specific language of GLBA section 503.[40]

The Bureau seeks data and other information concerning the effect on customer privacy rights if financial institutions were to use the alternative delivery method rather than their current delivery method. The Bureau further requests comment on whether the proposed alternative delivery method would be effective in reducing the potential for information overload on customers and reducing the burden on financial institutions of mailing hard copy privacy notices. The Bureau also has been informed by some financial institutions and consumer advocates

[35] 15 U.S.C. 6804.

[36] 12 U.S.C. 5512, 5581.

[37] The Bureau notes that the proposed alternative delivery method would be available even where a financial institution offers a notice and opt out under the Affiliate Marketing Rule, subpart C of 12 CFR part 1022, which relates to marketing based on information shared by a financial institution, as long as the Affiliate Marketing Rule notice and opt out is also provided separately from the Regulation P privacy notice. See the section-by-section discussion of proposed § 1016.9(c)(2)(i)(C), below.

[38] The Bureau notes that under current Regulation P, financial institutions are not required to deliver the privacy notice separately from other documents, although the Bureau believes that many financial institutions do so.

[39] Fostering comparison shopping by consumers among financial institutions was one of the objectives that GLBA model privacy notices, primarily initial privacy notices, were intended to accomplish. *See* 15 U.S.C. 6803(e). Facilitating comparison shopping based on privacy policies was also mentioned repeatedly in the preamble to the model privacy notice rule. *See* 74 FR 62890 (Dec. 1, 2009). The Bureau invites empirical data on whether consumers do comparison shop among financial institutions based on privacy notices.

[40] While the agencies previously charged with GLBA privacy notice rulemaking authority appear to have read the statutory grant of authority more restrictively (*See, e.g.,* 65 FR at 35174 (June 1, 2000), those agencies did not cite or interpret the statutory language quoted above and were not considering a form of electronic notice. Commenters to the agencies' proposed rule had suggested that the notice (including opt outs) be available only on request, or that a short-form notice be permitted in certain circumstances, and the agencies interpreted the statute as not allowing such arrangements. The Bureau's proposed rule's disclosure strategy is very different, and allows immediate access to the privacy notice for the overwhelming majority of customers.

Further, circumstances have changed since the 2000 rulemaking. In 2000, only 41.5% of U.S. households had internet access at home. In contrast, as of 2012, 74.8% of U.S. households had internet access at home and 80% of U.S. adults were using the internet, thus making easy access to electronic notices significantly more widespread. *See* U.S. Census data, ''Households With a Computer and Internet Use: 1984 to 2012,'' *available at https://www.census.gov/hhes/computer/publications/2012.html* and Pew Research Internet Project, *available at http://www.pewinternet.org/2014/02/27/summary-of-findings-3/.*

that financial institutions and customers are unnecessarily burdened by redundant opt-out requests because customers who receive the privacy notice are often unaware that they have previously opted out of information sharing. The Bureau notes that a financial institution may currently include with its privacy notice a separate notice explaining a customer's opt-out status, though the Bureau does not believe that many financial institutions do so. Although the Bureau is not proposing to change the model form or instructions in Regulation P at this time, the Bureau requests comment on whether financial institutions would want to include on the privacy notice itself a statement describing the customer's opt-out status.

Lastly, the Bureau notes that the proposed alternative delivery method would be available where customers have already consented to receive their privacy notices electronically pursuant to § 1016.9(a) and invites comment regarding how often privacy notices are delivered electronically under existing Regulation P. The Bureau further invites comment on whether the proposed alternative delivery method is appropriate for customers who already receive privacy notices electronically and whether financial institutions that currently provide the notice electronically would be likely to use the proposed alternative delivery method.

9(c)(2) Alternative Method for Providing Certain Annual Notices

9(c)(2)(i)

Proposed § 1016.9(c)(2) sets forth an alternative to § 1016.9(a) for providing certain annual notices. (Existing § 1016.9(c) would be redesignated as § 1016.9(c)(1) and its subparagraphs redesignated as § 1016.9(c)(1)(i) and (ii), respectively, to accommodate the new addition. The Bureau is also proposing to add a heading to new paragraph (c)(1) for technical reasons.) Specifically, proposed § 1016.9(c)(2)(i) would provide that, notwithstanding the general requirement in § 1016.9(a) that a notice be provided so that each consumer can reasonably be expected to receive actual notice, a financial institution may use the alternative method set forth in proposed § 1016.9(c)(2)(ii) to satisfy the requirement in § 1016.5(a)(1) to provide an annual notice if the institution meets certain conditions as specified in proposed § 1016.9(c)(2)(i)(A) through (E), which are discussed in detail below. The Bureau invites comment generally on the conditions in proposed § 1016.9(c)(2)(i)(A) through (E) and whether any of those conditions should not be required or whether additional conditions should be added. The Bureau notes that the proposed alternative delivery method would not alter the requirement in § 1016.5(a)(1) that the notice be provided annually.

9(c)(2)(i)(A)

Proposed § 1016.9(c)(2)(i)(A) would set forth the first condition for using the alternative delivery method: that the financial institution does not share the customer's information with nonaffiliated third parties other than through the activities specified under §§ 1016.13, 1016.14 and 1016.15 that do not trigger opt-out rights under the GLBA. Pursuant to § 1016.10(a), a financial institution generally may not disclose nonpublic personal information about a consumer to a nonaffiliated third party without first providing the consumer with a notice and opportunity to opt out of that sharing. Sections 1016.13, 1016.14, and 1016.15 lay out certain exceptions to the general opt-out requirement.[41] Accordingly, where a financial institution shares with nonaffiliated third parties as permitted by §§ 1016.13, 1016.14, and 1016.15, the financial institution is not required to provide the consumer with an opportunity to opt out of such sharing.

The Bureau believes that the alternative delivery method, while reducing burden, might not be as effective in alerting customers to their ability to opt out of certain types of information sharing as the current delivery method where a financial institution shares beyond the exceptions in §§ 1016.13, 1016.14, and 1016.15. The Bureau thus believes that the current delivery method for the annual notice pursuant to existing § 1016.9(a) is likely to be important for customers who have the right to opt out of information sharing. The Bureau believes that limiting the alternative delivery method to circumstances in which customers have no information sharing opt-out rights under Regulation P would generally reduce the burden of compliance while still mandating the use of the current delivery method to ensure that customers have notice of their opt-out rights where they exist. For the foregoing reasons, the Bureau proposes § 1016.9(c)(2)(i)(A).

The Bureau invites comment on the extent to which different financial institutions share beyond the exceptions in §§ 1016.13, 1016.14, and 1016.15 and thus would be precluded from using the proposed alternative delivery method. The Bureau further invites comment on the impact on customers of receiving the annual privacy notice pursuant to the current delivery method, rather than the proposed alternative delivery method, where the notice informs the customer of opt-out rights pursuant to Regulation P.

9(c)(2)(i)(B)

Proposed § 1016.9(c)(2)(i)(B) would set forth the second condition for using the alternative delivery method for the annual privacy notice: that the financial institution not include on its annual notice an opt out under section 603(d)(2)(A)(iii) of the FCRA.[42] As discussed in part II above, FCRA section 603(d)(2)(A)(iii) excludes from the statute's definition of ''consumer report'' a financial institution's sharing of certain information about a consumer with its affiliates if the financial institution provides the consumer with notice and an opportunity to opt out of the information sharing. Though this notice and opt out is a product of the FCRA rather than the GLBA, section 503(b)(4) of the GLBA and § 1016.6(a)(7) require a financial institution's privacy notice to include any disclosures the financial institution makes under section 603(d)(2)(A)(iii) of the FCRA. Accordingly, to the extent that a financial institution chooses to provide an opt out pursuant to FCRA section 603(d)(2)(A)(iii), § 1016.6(a)(7) requires the privacy notice to include that opt out.[43] For the same reasons as discussed with respect to proposed § 1016.9(c)(2)(i)(A), the Bureau proposes to allow a financial institution to use the alternative delivery method only if it does not share information in a way that triggers information sharing opt-out rights for the customer, including those under section 603(d)(2)(A)(iii) of the FCRA. Accordingly, the Bureau proposes § 1016.9(c)(2)(i)(B).

The Bureau invites comment on the extent to which different financial

[41] Specifically, § 1016.13 provides that the opt-out requirement generally does not apply where a financial institution shares nonpublic personal information with nonaffiliated third parties to provide services to the sharing financial institution, including for marketing products or services of the financial institution or those of other financial institutions with which the sharing institution has joint marketing agreements. Section 1016.14 provides that the opt-out requirement generally does not apply where the financial institution shares nonpublic personal information as required to process or service transactions for the consumer's account. Section 1016.15 provides that the opt-out requirement does not apply to certain specific types of information sharing by the financial institution, including, for example, at the consumer's request, to protect the confidentiality of the financial institution's records, to a consumer reporting agency, and to comply with a properly authorized civil, criminal or regulatory investigation.

[42] 15 U.S.C. 1681a(d)(2)(A)(iii).

[43] *See* 64 FR 35162, 35176 (June 1, 2000).

institutions provide a FCRA section 603(d)(2)(A)(iii) opt out and thus would be precluded from using the proposed alternative delivery method. The Bureau further invites comment on the benefit to customers of receiving the annual privacy notice pursuant to the current delivery method, rather than the proposed alternative delivery method, where the notice informs the customer of opt-out rights pursuant to FCRA section 603(d)(2)(A)(iii).

9(c)(2)(i)(C)

Proposed § 1016.9(c)(2)(i)(C) would contain the third condition for using the alternative delivery method: that the annual privacy notice is not the only notice provided to satisfy the requirements of section 624 of the FCRA [44] and subpart C of 12 CFR part 1022 (the ''Affiliate Marketing Rule''). The Bureau is proposing to provide flexibility in the manner in which an annual notice which contains disclosures under the Affiliate Marketing Rule is provided since proposed § 1016.9(c)(2)(i)(C) would require the consumer to be provided the Affiliate Marketing notice and opt out separately, as discussed below. FCRA section 624, as implemented by the Affiliate Marketing Rule, provides that a person may not use certain information about a consumer that it receives from an affiliate to make solicitations for marketing purposes unless the consumer receives notice and the opportunity to opt out of this use from an affiliate with whom the consumer has or had a pre-existing business relationship.[45] The Affiliate Marketing Rule further governs the content, scope, and duration of that notice and opt out and the method by which it must be provided to consumers.[46]

In contrast to the FCRA section 603(d)(2)(A)(iii) notice and opt-out right, which is generally required to be included on the annual privacy notice by § 1016.6(a)(7) if a financial institution offers that opt out, the Affiliate Marketing Rule notice and opt out is not required to be included on the Regulation P privacy notice. The Affiliate Marketing Rule notice and opt out *may* be included on the privacy notice, however. Moreover, the model privacy notice includes a notice and opt out under FCRA section 624 and the Affiliate Marketing Rule,[47] and the Affiliate Marketing Rule specifically provides that its opt out may be incorporated into the GLBA privacy notice.[48] The instructions to the GLBA model privacy notice make clear that a financial institution subject to the Affiliate Marketing Rule may omit that notice and opt out from the GLBA model privacy notice, provided the institution separately complies with the Affiliate Marketing Rule.[49]

Given that the Affiliate Marketing Rule notice and opt out is not required on the annual privacy notice (and indeed does not have to be provided annually),[50] the Bureau believes that the existence of an opt-out right under the Affiliate Marketing Rule should not preclude a financial institution from using the proposed alternative delivery method. Instead, the Bureau is proposing that the alternative delivery method would be available for a financial institution that must provide a notice and opt out under the Affiliate Marketing Rule as long as the annual privacy notice is not the only notice provided to the customer explaining that opt-out right. In other words, a financial institution that undertakes opt-out obligations under the Affiliate Marketing Rule may use the alternative delivery method provided that it fulfills those notice and opt-out obligations separately from the annual privacy notice.

The Bureau notes that certain requirements for the Affiliate Marketing notice and opt out differ, depending on whether it is included as part of the model privacy notice or issued separately. Where a financial institution includes the Affiliate Marketing notice and opt out on the model privacy notice, Regulation P requires that opt out to be of indefinite duration.[51] In contrast, where a financial institution provides the Affiliate Marketing notice and opt out separately, Regulation V allows the opt out to be offered for as little as five years, subject to renewal, and the disclosure of the duration of the opt out must be included on the notice.[52] Because inclusion of the Affiliate Marketing opt out on the model privacy notice requires a financial institution to honor the opt out indefinitely, a financial institution that also offers the opt out right separately in order to use the alternative delivery method would be able to comply with both Regulations P and V by stating in the separate Affiliate Marketing notice that the opt out is of indefinite duration and by honoring such opt-out requests indefinitely.

The Bureau acknowledges that under this proposal some customers will no longer receive their annual privacy notice pursuant to the current delivery requirements even though the notice informs them of a right to opt out that exists pursuant to the Affiliate Marketing Rule. The Bureau believes, however, that this concern is mitigated by the fact that in such cases, proposed § 1016.9(c)(2)(i)(C) would require that the Affiliate Marketing Rule opt-out notice also be delivered separately from the annual privacy notice.[53] The Bureau considered but decided against proposing to prohibit use of the alternative delivery method where a financial institution provides an opt out under the Affiliate Marketing Rule. The Bureau believes that prohibiting the use of the alternative delivery method in that circumstance could discourage financial institutions from voluntarily providing the Affiliate Marketing notice and opt out through its annual privacy notice and could be at odds with a financial institution's choice whether to use the annual privacy notice to comply with its opt-out obligations under the Affiliate Marketing Rule. Accordingly, the Bureau is proposing § 1016.9(c)(2)(i)(C) which would permit use of the alternative delivery method for a financial institution that provides a notice and opt out under the Affiliate Marketing Rule, provided that the financial institution does not use the annual privacy notice as the sole means of providing notice to customers of that opt-out right.

The Bureau invites comment on the extent to which financial institutions include the Affiliate Marketing Rule opt out on their Regulation P privacy notices and thus would be precluded from using the proposed alternative delivery method unless they separately delivered an Affiliate Marketing Rule opt-out notice. The Bureau further invites comment on the benefit or harm to customers of receiving the annual privacy notice pursuant to the alternative delivery method if the notice informs the customer of opt-out rights pursuant to the Affiliate Marketing Rule and the customer would receive a separate Affiliate Marketing rule opt-out notice.

[44] 15 U.S.C. 1681s–3.

[45] 12 CFR 1022.21(a).

[46] 12 CFR 1022.22, 1022.23, 1022.24, 1022.25, 1022.26, and 1022.27.

[47] Appendix to part 1016 at C.2.d.6.

[48] 12 CFR 1022.23(b).

[49] Appendix to part 1016 at C.2.d.6.

[50] 72 FR 62910, 62930 (Nov. 7, 2007).

[51] Regulation P provides, ''Institutions that include this reason [for sharing or using personal information] must provide an opt-out of indefinite duration.'' Appendix to part 1016 at C.2.d.6.

[52] 12 CFR 1022.22(b). 12 CFR 1022.23(a)(1)(iv).

[53] Alternatively, the financial institution could continue to use the current delivery method and include the Affiliate Marketing opt out on the annual privacy notice, with no separate notice required.

9(c)(2)(i)(D)

Proposed § 1016.9(c)(2)(i)(D) would present the fourth condition for using the alternative delivery method: that the information a financial institution is required to convey on its annual privacy notice pursuant to § 1016.6(a)(1) through (5), (8) and (9) has not changed since the immediately previous privacy notice, initial or annual, to the customer. The Bureau is proposing to provide more flexibility in the method by which a notice that has not changed may be delivered because it believes that delivery of the annual notice as currently required by § 1016.9(a) is likely less useful if the customer has already received a privacy notice, the financial institution's sharing practices remain generally unchanged since that previous notice, and the other requirements of proposed § 1016.9(c)(2)(i) are met. Proposed § 1016.9(c)(2)(i)(D) lists the specific disclosures of the privacy notice that must not change in order for a financial institution to take advantage of the alternative delivery method. They are:

(1) the categories of nonpublic personal information that the financial institution collects (§ 1016.6(a)(1));

(2) the categories of nonpublic personal information that the financial institution discloses (§ 1016.6(a)(2));

(3) the categories of affiliates and nonaffiliated third parties to whom the financial institution discloses nonpublic personal information, other than those parties to whom the financial institution discloses information under §§ 1016.14 and 1016.15 (§ 1016.6(a)(3));

(4) the categories of nonpublic personal information about the financial institution's former customers that the financial institution discloses and the categories of affiliates and nonaffiliated third parties to whom the financial institution discloses nonpublic personal information about the financial institution's former customers, other than those parties to whom the financial institution discloses information under §§ 1016.14 and 1016.15 (§ 1016.6(a)(4));

(5) if the financial institution discloses nonpublic personal information to a nonaffiliated third party under § 1016.13 (and no other exception in § 1016.14 or § 1016.15 applies to that disclosure), a separate statement of the categories of information the financial institution discloses and the categories of third parties with whom the financial institution has contracted (§ 1016.6(a)(5));

(6) the financial institution's policies and practices with respect to protecting the confidentiality and security of nonpublic personal information (§ 1016.6(a)(8)); and

(7) any description of nonaffiliated third parties subject to exceptions as described in § 1016.6(b) (§ 1016.6(a)(9)).[54]

With respect to disclosures required by § 1016.6(a)(1) through (5) and (9) (items 1–5 and 7 in the list above), the Bureau emphasizes that a financial institution would be precluded from using the alternative delivery method only if it made changes in the category of information it collects or discloses so as to require changes to the disclosure on the notice itself. The disclosures required by § 1016.6(a)(1) through (5) and (9) describe categories of nonpublic personal information collected and disclosed and categories of third parties with whom that information is disclosed. Accordingly, only a change in or addition of a category of information collected or shared or in a category of third party with whom the information is shared would prevent a financial institution from satisfying proposed § 1016.9(c)(2)(i)(D). The Bureau further notes that stylistic changes in the wording of the notice that do not change the information conveyed on the notice would not prevent a financial institution from satisfying proposed § 1016.9(c)(2)(i)(D).

For example, assume a financial institution begins collecting information regarding potential customers' assets as part of an application process that the institution had not previously collected. If the institution had previously disclosed on its privacy notice that the nonpublic personal information it collected included information received from customers on applications or other forms, the financial institution would satisfy proposed § 1016.9(c)(2)(i)(D) notwithstanding the fact that the institution had not previously collected asset information. Similarly, a financial institution's decision to begin sharing its customers' nonpublic personal information with a mortgage broker, even where it had not previously shared that information with any mortgage brokers, would not prohibit the financial institution from satisfying proposed § 1016.9(c)(2)(i)(D) provided that the financial institution had previously disclosed on its privacy notice that it shared information with financial service providers.

With respect to the disclosure required by § 1016.6(a)(8), the Bureau notes that proposed § 1016.9(c)(2)(i)(D) would disallow the use of the alternative delivery method if a financial institution changes the required description of its policies and practices with respect to protecting the confidentiality and security of nonpublic personal information. The Bureau recognizes that this information is distinguishable from the information required by § 1016.6(a)(1) through (5) and (9) in that the information required by § 1016.6(a)(8) does not describe the financial institution's collecting or sharing of nonpublic personal information but instead describes the financial institution's overall data security policy. The Bureau believes that changes in the description of a financial institution's data security policy likely are significant enough that when they occur, the annual privacy notice should continue to be delivered according to the existing methods in § 1016.9. Indeed, in light of recent large-scale data security breaches, the Bureau believes that some customers may be more interested in the data security policies of their financial institutions than they were previously.

The Bureau notes that stylistic changes to the description of the data security policy that do not change the information conveyed on the notice would not prevent a financial institution from satisfying proposed § 1016.9(c)(2)(i)(D). The Bureau further notes that (similar to the information required by § 1016.6(a)(1) through (5) and (9)) changes to the underlying data security policy would preclude financial institutions from using the alternative delivery method only if these policy changes are substantial enough under Regulation P to trigger changes in the description of that policy on the annual notice itself. The Bureau believes, therefore, that financial institutions likely will be able to make improvements to their data security practices without necessarily changing information disclosed pursuant to § 1016.6(a)(8).

The Bureau invites comment about the effect on customers of conditioning availability of the alternative delivery method on there being no change from the previous year's notice without regard to the conditions that would be required by proposed § 1016.9(c)(2)(i)(A) through (C). The Bureau further invites comment on how

[54] Note that the information disclosed pursuant to § 1016.6(a)(6) and (7) are not among the provisions in proposed § 1016.9(c)(2)(i)(D) because those disclosures relate to opt-out rights the existence of which would make the alternative delivery method unavailable for a financial institution under proposed § 1016.9(c)(2)(i)(A) and (B), as discussed above. In addition, the omission from proposed § 1016.9(c)(2)(i)(D) of the opt-out disclosures under GLBA and FCRA makes clear that a financial institution may change its privacy policy so as to eliminate information sharing that triggers opt-out rights and may then make use of the alternative delivery method for the next annual privacy notice.

often financial institutions change their privacy notice such that they would be precluded from using the proposed alternative delivery method. Lastly, the Bureau invites comment on the extent to which a financial institution's changing its data security policy might preclude it from using the proposed alternative delivery method and whether the information disclosed pursuant to § 1016.6(a)(8) should be included in proposed § 1016.9(c)(2)(i)(D).

9(c)(2)(i)(E)

The last condition for use of the alternative delivery method, which would be set forth in proposed § 1016.9(c)(2)(i)(E), requires that the financial institution use the model privacy form for its annual privacy notice. Though use of the model form constitutes compliance with the notice content requirements of §§ 1016.6 and 1016.7, Regulation P does not require use of the model notice.[55] However, the Bureau believes that a large majority of financial institutions use the model notice. The model notice was adopted in 2009 as part of an interagency rulemaking because consumer research revealed that the model notice was easier to understand and use than most privacy notices then being used.[56] During outreach, consumer and privacy groups told the Bureau that that the model notice is easier for consumers to understand than other privacy notices. The Bureau is proposing to require use of the model notice as a condition of using the alternative delivery method to foster the use of a form of notice that appears to be more effective in conveying privacy policy information to customers than non-standard notices and thus enhance the effectiveness of the notice provided under the alternative method.

Accordingly, the Bureau is proposing § 1016.9(c)(2)(i)(E), which would permit use of the alternative delivery method only if a financial institution uses the model privacy form for its annual privacy notice. The Bureau believes that proposed § 1016.9(c)(2)(i)(E) is likely to encourage some financial institutions that are not currently doing so to use the model notice in order to take advantage of the cost savings associated with the alternative delivery method. Moreover, the Bureau does not believe that requiring use of the model notice to be eligible for the alternative delivery method creates a significant compliance burden for the minority of financial institutions that do not currently use it, especially given that financial institutions would not choose to use the alternative delivery method if the one-time cost of adopting the model notice were not more than offset by the ongoing burden reduction of the alternative delivery method for the annual notice.

The Bureau notes that the model form accommodates information that may be required by state or international law, as applicable, in a box called ''Other important information.'' [57] Accordingly, the Bureau expects that a financial institution that has additional privacy disclosure obligations pursuant to state or international law would still be able to use the model form in order to take advantage of the proposed alternative delivery method. The Bureau invites comment on related state or international law requirements and their interaction with the model privacy notice as well as the proposed alternative delivery method in general.

The Bureau does not contemplate that adoption of the model privacy form, which may require changes to the wording and layout of the privacy notice but not to the information conveyed, would constitute a change within the meaning of proposed § 1016.9(c)(2)(i)(D). In a somewhat analogous situation, the agencies that promulgated the model privacy notice explained: ''Adoption of the model form, with no change in policies or practices, would not constitute a revised notice [for purposes of the rule section on revised privacy notices], although institutions may elect to consider the format change as revision, at their option.'' [58] The Bureau solicits comment on whether adoption of the model form instead should be considered a change in the annual notice pursuant to proposed § 1016.9(c)(2)(i)(D) such that an institution adopting the model form in the first instance would be precluded from using the proposed alternative delivery method until the following year's annual notice. The Bureau further invites comment on the extent to which financial institutions currently use the model privacy notice and if they do not, whether they would choose to do so to take advantage of the proposed alternative delivery method. Lastly, the Bureau invites comment on the benefit to customers of receiving the model privacy notice rather than a privacy notice in a non-standard format.

9(c)(2)(ii)

In proposed § 1016.9(c)(2)(ii), the Bureau sets forth the alternative delivery method that would be permissible to satisfy the requirement in § 1016.5(a)(1) to provide an annual notice if a financial institution meets the conditions described in proposed § 1016.9(c)(2)(i). For the reasons discussed above, the Bureau believes that delivery of the annual privacy notice pursuant to the existing delivery requirements may be less important for customers if the requirements of proposed § 1016.9(c)(2)(i) are met. The Bureau believes that delivery pursuant to the alternative delivery method proposed, described in detail below, would inform customers of their financial institution's privacy policies effectively and at a lower cost than the current delivery methods. Although the Bureau believes it is unlikely, the Bureau recognizes the possibility that fewer customers may read the privacy notice when it is delivered pursuant to the alternative method than would have read the notice if it had been delivered to them using the current delivery methods. The Bureau requests comment on how frequently customers read privacy notices delivered pursuant to existing § 1016.9(a) and how frequently the notices would be read if they were provided pursuant to the proposed alternative delivery method. The Bureau further invites comment generally on the components of the alternative delivery method in proposed § 1016.9(c)(2)(ii)(A) through (C) and whether any of those components should not be required or whether additional components should be added.

9(c)(2)(ii)(A)

Proposed § 1016.9(c)(2)(ii)(A) would set forth the first component of the alternative delivery method: that a financial institution inform the customer of the availability of the annual privacy notice. To satisfy proposed § 1016.9(c)(2)(ii)(A), a financial institution would be required to convey in a clear and conspicuous manner not less than annually on a notice or disclosure the institution is required or expressly and specifically permitted to use under any other provision of law that its privacy notice has not changed, that the notice is available on its Web site and that a hard copy of the notice will be mailed to customers if they call a toll-free number to request one.

Proposed § 1016.9(c)(2)(ii)(A) would use the term ''clear and conspicuous,'' which is defined in existing § 1016.3(b)(1) as meaning ''reasonably understandable'' and ''designed to call attention to the nature and significance of the information.'' The Bureau believes that the existing examples in

[55] 12 CFR 1016.2.

[56] 74 FR 62890, 62891 (Dec. 1, 2009).

[57] Appendix to part 1016 at C.3.c.1.

[58] 74 FR 62890, 62907 n. 196.

§ 1016.3(b)(2)(i) and (ii) for reasonably understandable and designed to call attention, respectively, likely would provide sufficient guidance on ways to make the notice of availability in proposed § 1016.9(c)(2)(ii)(A) clear and conspicuous. Specifically, because the notice of availability would be combined with another notice or disclosure sent to the customer, the Bureau points to existing § 1016.3(b)(2)(ii)(E), which states that on a form that combines a notice with other information, a notice containing distinctive type size, style, and graphic devices, such as shading or sidebars, is designed to call attention to the nature and significance of the information, as required under the clear and conspicuous definition.

With respect to the notice of availability being conveyed not less than annually, the Bureau notes that the proposed rule would permit it being included more often than annually (*e.g.,* quarterly or monthly). Although the Bureau is proposing to require the notice of availability annually, the Bureau invites comment on the advantages and disadvantages of it being provided on a more frequent basis.

With respect to the type of statement that may be used to convey the notice of availability, proposed § 1016.9(c)(2)(ii)(A) would permit it to be conveyed on a notice or disclosure the institution is required or expressly and specifically permitted to issue under any other provision of law. This language is similar to that used in Regulation V, which provides that ''a notice required by this subpart may be coordinated and consolidated with any other notice or disclosure required to be issued under any other provision of law. . . .'' [59] Proposed § 1016.9(c)(2)(ii)(A) would add to that language in order to ensure that the notice of availability could be included on disclosures that are expressly and specifically permitted by law, even if not required. The Bureau notes that a notice of availability would satisfy proposed § 1016.9(c)(2)(ii)(A) if it were included on a periodic statement which is permitted but not required by Regulation DD [60] but would not satisfy proposed § 1016.9(c)(2)(ii)(A) if included on advertising materials that were neither required nor specifically permitted by law. Proposed § 1016.9(c)(2)(ii)(A) does not specify in more detail the type of statement on which the notice of availability must be conveyed because the Bureau intends the alternative delivery method to be flexible enough to be used by financial institutions whose business practices vary widely. The Bureau invites comment on the benefits and costs of requiring the notice of availability to be included on a document required or expressly and specifically permitted under any other provision of law.

The Bureau further notes that where two or more financial institutions provide a joint privacy notice pursuant to § 1016.9(f), proposed § 1016.9(c)(2)(ii)(A) would require each financial institution to separately provide the notice of availability on a notice or disclosure that it is required or permitted to issue. The Bureau invites comment on how often financial institutions jointly provide privacy notices and whether the proposed alternative delivery method would be feasible for such jointly issued notices.

Proposed § 1016.9(c)(2)(ii)(A) also would require the institution to state on the notice that its privacy policy has not changed. The Bureau intends this proposed requirement to help customers assess whether they are interested in reading the policy. This statement would always be accurate if the alternative delivery method is used correctly, since a financial institution could not use the alternative delivery method if its annual privacy notice had changed.

Proposed § 1016.9(c)(2)(ii)(A) would further require that the statement include a specific web address that takes customers directly to the page where the privacy notice is available and a toll-free telephone number for customers to call and request that a hard copy of the annual notice be mailed to them. With respect to the specific web address, the Bureau notes that the language of proposed § 1016.9(c)(2)(ii)(A) is somewhat similar to an option used on the model privacy notice to provide an online opt out of information sharing.[61] Proposed § 1016.9(c)(2)(ii)(A) requires a web address that the customer can type into a web browser to directly access the page that contains the privacy notice so that the customer need not click on any links after typing in the web address. The Bureau believes that a direct link may make it easier and more convenient for customers to access the privacy notice.

Proposed § 1016.9(c)(2)(ii)(A) would also require that the notice of availability include a toll-free number a customer can call to request a hard copy of the annual privacy notice. This requirement is intended to assist customers who do not have internet access or would prefer to receive a hard copy of the privacy notice. The Bureau notes that Regulation P currently contains provisions on the use of a toll-free number. For example, existing § 1016.6(d)(4)(i) lists a financial institution providing a toll-free number that the consumer may call to request a notice as an example of reasonable means by which a consumer who is not a customer may obtain a copy of an institution's privacy notice. The Bureau expects that most financial institutions will already have a toll-free number for their customers to contact them and thus providing a toll-free number for this purpose would not be a significant burden. Further, the Bureau is concerned that requiring a customer to pay for a call to the financial institution to request a copy of the privacy notice could impose a new cost on the customer that could deter customers from calling to request a hard copy of the notice.

The Bureau invites comment about the advantages and disadvantages of requiring financial institutions to provide a toll-free number and whether there would be other appropriate ways to balance customers' interests and to distinguish between small and large financial institutions. The Bureau further invites comment on the relative need that the telephone number for customers to request a copy of the privacy notice be toll-free, given recent technological and billing practice changes to the telephone industry. Lastly, the Bureau invites comment on the advantages and disadvantages of requiring financial institutions to provide a dedicated telephone number for privacy notice requests so that customers can easily request a hard copy of the notice without navigating a complicated automated telephone menu.

9(c)(2)(ii)(B)

Proposed § 1016.9(c)(2)(ii)(B) would set forth the second component of the alternative delivery method: That the financial institution post its current privacy notice continuously and in a clear and conspicuous manner on a page of the institution's Web site that contains only the privacy notice. The Bureau believes, based on its outreach, that this provision of the alternative delivery method is feasible for most financial institutions. Even for a financial institution that does not currently post its annual notice on its Web site, creating a specific page for this purpose is a one-time process that the Bureau believes most financial institutions could implement without significant cost. Further, the Bureau

[59] 12 CFR 1022.23(b).

[60] 12 CFR 1030.6.

[61] Appendix to 12 CFR part 1016, at C.2.e.

believes that encouraging financial institutions that do not already do so to post the privacy notice on their Web sites may benefit consumers by making the notices more widely available.

Proposed § 1016.9(c)(2)(ii)(B) would require that the annual notice be posted on a page of the Web site that contains only the privacy notice because the Bureau believes that were the notice included on a page with other content, such as other disclosures or promotions for products, that content could detract from the prominence of the notice and make it less likely that a customer would actually read it. However, information that is not content, such as navigational menus to other pages on the Web site, could appear on the same page as the privacy notice. The Bureau notes that other pages on the financial institution's Web site could link to the page containing the privacy notice but the customer would still have to be provided a specific web address that takes the customer directly to the page where the privacy notice is available to satisfy the requirement to post the notice on the financial institution's Web site in proposed § 1016.9(c)(2)(ii)(B).[62]

Proposed § 1016.9(c)(2)(ii)(B) would further require that the Web page that contains the privacy notice be accessible to the customer without requiring the customer to provide any information such as a login name or password or agree to any conditions to access the page. The Bureau is concerned that if customers were required to register for a login name or sign in to the financial institution's Web site simply to access the privacy notice, it could discourage some customers from accessing and reading the notice. Given that the alternative delivery method will require customers to seek out the annual notice in a way that they have not previously been required to do, proposed § 1016.9(c)(2)(ii)(B) intends to make accessing the privacy notice on an institution's Web site as simple and straightforward as possible. For the reasons described above, the Bureau proposes § 1016.9(c)(2)(ii)(B).

The Bureau invites comment regarding the prevalence of financial institutions that currently maintain Web sites, whether they currently post the Regulation P privacy notice on those Web sites, and if they do not currently do these things, how costly it would be to do so. The Bureau additionally seeks comment on whether financial institutions provide different privacy notices for different groups of customers, depending on the type of account the customer has with the financial institution, such that posting multiple privacy notices on the financial institution's Web site may create confusion as to which is the relevant privacy notice for any particular customer. Lastly, the Bureau seeks comment on the relative benefit or harm to customers of accessing the privacy notice on a financial institution's Web site as proposed.

9(c)(2)(ii)(C)

Proposed § 1016.9(c)(2)(ii)(C) would set forth the third component of the alternative delivery method: That the financial institution promptly mail its current privacy notice to those customers who request it by telephone. The Bureau proposes this requirement to assist customers without internet access and customers with internet access who would prefer to receive a hard copy of the notice. Proposed § 1016.9(c)(2)(ii)(C) would include a requirement that the notice be mailed promptly to indicate that a financial institution may not, for example, wait to mail the privacy notice until another notice or disclosure is sent to the customer, but would instead be required to mail the privacy notice shortly after receiving the customer's request to do so. The Bureau notes that consistent with privacy notices currently provided under Regulation P, financial institutions will not charge the customer for delivering the annual notice, given that delivery of the annual notice is required by statute and regulation. For these reasons, the Bureau proposes § 1016.9(c)(2)(ii)(C). The Bureau invites comment on whether prompt mailing of the privacy notice upon request is feasible for financial institutions and on the relative cost associated with mailing privacy notices on request. The Bureau further invites comment on whether requiring prompt mailing is sufficient to ensure that customers receive privacy notices in a timely manner or whether ''promptly'' should be more specifically defined, such as by a certain number of days.

9(c)(2)(iii)

Proposed § 1016.9(c)(2)(iii) would provide an example of a notice of availability that satisfies § 1016.9(c)(2)(ii)(A). The Bureau intends this example to provide clear guidance on permissible content for the notice of availability to facilitate compliance. The content of the example notice of availability in proposed § 1016.9(c)(2)(iii) draws from language in the existing model privacy notice, which was previously subject to consumer testing.[63] The proposed example would include the heading ''Privacy Notice'' in boldface on the notice of availability. The proposed example further would state that Federal law requires the financial institution to tell customers how it collects, shares, and protects their personal information; this language mirrors the ''Why'' box on the model privacy notices.[64] The remaining portion of the proposed example would inform customers that the financial institution's privacy notice has not changed, the address of the Web site at which customers can access the privacy notice, and the toll-free phone number to call to request a free copy of the notice. Because the Bureau believes that this language would provide a compliant and effective notice of availability, the Bureau proposes § 1016.9(c)(2)(iii).

The Bureau notes that the proposed example contains certain illustrative elements that would satisfy proposed § 1016.9(c)(2) but are not specifically required by the proposed rule text. These include entitling the notice of availability ''Privacy Notice,'' including a statement that ''Federal law requires the financial institution to tell customers how it collects, shares, and protects their personal information,'' and stating that getting a copy of the notice is ''free'' to the consumer. The Bureau invites comment on whether the proposed example notice of availability would be feasible for financial institutions to implement, whether the illustrative elements not specifically required by the rule should be so required, and whether the proposed language would be effective in informing customers of the availability of the privacy notice.

[62] With regard to the proposed requirement that the notice be posted in a ''clear and conspicuous'' manner, the Bureau notes that existing § 1016.3(b)(2)(iii) gives examples of what clear and conspicuous means for a privacy notice posted on a Web site. One example provides that a financial institution designs its notice to call attention to the nature and significance of the information in the notice if it uses text or visual cues to encourage scrolling down the page if necessary to view the entire notice and ensures that other elements on the Web site (such as text, graphics, hyperlinks, or sound) do not distract attention from the notice. Section 1016.3(b)(2)(iii)(A) and (B) also provides examples of clear and conspicuous placement of the notice within the financial institution's Web site but these examples do not seem relevant to the posting of the notice for the alternative delivery method because consumers will be typing into their web browser the web address of the specific page that contains the annual notice, rather than navigating to the annual notice from the financial institution's home page. To the extent that a financial institution is satisfying existing § 1016.9(a) and not the alternative delivery method proposed in § 1016.9(c)(2) by posting the privacy notice on its Web site, the clear and conspicuous examples in § 1016.3(b)(2)(iii)(A) and (B) still apply.

[63] *See* Appendix to 12 CFR part 1016, at A.

[64] *Id.*

V. Section 1022(b)(2) of the Dodd-Frank Act

A. Overview

In developing the proposed rule, the Bureau has considered the potential benefits, costs, and impacts.[65] The Bureau requests comment on the preliminary analysis presented below as well as the submission of additional data that could inform the Bureau's analysis of the benefits, costs, and impacts of the rule. The Bureau has consulted and coordinated with the SEC, CFTC, FTC, and NAIC, and consulted with or offered to consult with, the OCC, Federal Reserve Board, FDIC, NCUA, and HUD, including regarding consistency with any prudential, market, or systemic objectives administered by such agencies.

The proposal would amend § 1016.9(c) of Regulation P to provide an alternative method for delivering annual privacy notices. A financial institution would be able to use the alternative delivery method if:

(1) It does not share information with nonaffiliated third parties other than for purposes under the exclusions allowed under Regulation P;

(2) It does not include on its annual privacy notice an opt out under section 603(d)(2)(A)(iii) of the FCRA;

(3) The annual privacy notice is not the only method used to satisfy the requirements of section 624 of the FCRA and subpart C of part 1022, if applicable;

(4) Certain information it is required to convey on its annual privacy notice has not changed since it provided the immediately previous privacy notice; and

(5) It uses the Regulation P model privacy form for its annual privacy notice.

Under the proposed alternative delivery method, the financial institution would have to:

(1) Convey at least annually on another notice or disclosure that its privacy notice is available on its Web site and will be mailed upon request to a toll-free number. Among other things, the institution would have to include a specific web address that takes the customer directly to the privacy notice;

(2) Post its current privacy notice continuously on a page of its Web site that contains only the privacy notice, without requiring a login or any conditions to access the page; and

(3) Promptly mail its current privacy notice to customers who request it by telephone.

B. Potential Benefits and Costs to Consumers and Covered Persons

Proposed § 1016.9(c)(2) provides certain benefits to consumers relative to the baseline established by the current provisions of Regulation P. The proposal provides an incentive for financial institutions to adopt the model privacy form and to post it on their Web sites; or, if already adopted, to post the model privacy form on their Web sites; as long as there are no other reasons that the financial institutions would not be able to use the alternative delivery method. Recent research establishes that, at least for banks, a large number do not post the model privacy form on their Web sites. While the Bureau does not know how many of these financial institutions would need to make this change in order to use the alternative delivery method, at least some additional consumers would learn about the information sharing policies of financial institutions through the model privacy form as a result of proposed § 1016.9(c)(2).[66] Given the consumer testing that went into the development of the model form and the public input that went into its design, the Bureau believes that the model form is generally clearer and easier to understand than most privacy notices that deviate from the model.[67] Thus, proposed § 1016.9(c)(2) would likely make it easier for some consumers to review privacy policies and opt outs and to make comparisons across the privacy policies and opt outs of financial institutions.

Proposed § 1016.9(c)(2) may also benefit certain consumers by disclosing that a financial institution's privacy policy has not changed and by reducing the number of full, unchanged privacy policies certain consumers receive every year. Under the proposal, consumers who transact with financial institutions that adopt the alternative delivery method would be informed through a notice or disclosure they are already receiving that the privacy policy has not changed but is available for their review, and these consumers would only receive the full privacy policy as a matter of course when it has changed or other requirements for use of the alternative delivery method are not met. While there is no data available on the number of consumers who are indifferent to (or dislike) receiving full, unchanged privacy notices every year, the limited use of opt outs and anecdotal evidence suggest that there are such consumers.[68] Some consumers who want to review privacy policies may prefer reading the privacy form on a Web site to being mailed one, especially since financial institutions using the alternative delivery method must limit their information sharing to practices that do not give consumers opt-out rights.

The Bureau believes that few consumers would experience any costs from proposed § 1016.9(c)(2). There is a risk that some consumers may be less informed about a financial institution's information sharing practices if the financial institution adopts the proposed alternative delivery method. However, proposed § 1016.9(c)(2)(ii)(A) mitigates this risk by requiring annually a clear and conspicuous statement that the privacy notice is available on the Web site, and proposed § 1016.9(c)(2)(ii)(B) ensures that the model privacy form is posted continuously in a clear and conspicuous manner on the Web site. Consumers may print the privacy policy at their own expense, while under current § 1016.9(c)(2) the notice is delivered to them, which represents a transfer of costs from industry to consumers. However, proposed § 1016.9(c)(2)(ii)(A) would provide consumers with a toll-free telephone number to request that the privacy notice be mailed to the consumer, which gives consumers the option of obtaining the notice without incurring the cost of printing it. Further, the Bureau believes that a printed form is mostly valuable to consumers who would exercise opt-out rights. However, the only opt outs that could be available to the consumer under proposed § 1016.9(c)(2) would be *voluntary opt*

[65] Specifically, section 1022(b)(2)(A) of the Dodd-Frank Act calls for the Bureau to consider the potential benefits and costs of a regulation to consumers and covered persons, including the potential reduction of access by consumers to consumer financial products or services; the impact on depository institutions and credit unions with $10 billion or less in total assets as described in section 1026 of the Dodd-Frank Act; and the impact on consumers in rural areas.

[66] *See* L.F. Cranor, K. Idouchi, P.G. Leon, M. Sleeper, B. Ur, *Are They Actually Any Different? Comparing Thousands of Financial Institutions' Privacy Practices.* The Twelfth Workshop on the Economics of Information Security (WEIS 2013), June 11–12, 2013, Washington, DC. They find that only about half of FDIC insured depositories (3,422 out of 6,701) post the model privacy form on their Web sites.

[67] The development and testing of the model privacy notice is discussed in L. Garrison, M. Hastak, J.M. Hogarth, S. Kleimann, A.S. Levy, *Designing Evidence-based Disclosures: A Case Study of Financial Privacy Notices.* The Journal of Consumer Affairs, Summer 2012: 204–234. *See also* the model privacy form final rule, 74 FR 62890 (December 1, 2009).

[68] One early analysis of the use of the opt outs reported at most 5% of consumers make use of them in any year, and likely fewer. *See* J.M. Lacker, *The Economics of Financial Privacy: To Opt Out or Opt In?* Federal Reserve Bank of Richmond Economic Quarterly, Volume 88/3, Summer 2002.

outs, i.e., opt outs from modes of sharing information that are covered by exceptions, or (at the institution's discretion) an Affiliate Marketing opt-out beyond those the institution has previously provided elsewhere. Voluntary opt outs do not appear to be common.[69]

Regarding benefits and costs to covered persons, the primary effect of the proposal would be burden reduction by lowering the costs to industry of providing annual privacy notices. Proposed § 1016.9(c)(2) would impose no new compliance requirements on any financial institution. All methods of compliance under current law would remain available to a financial institution if the proposal were adopted, and a financial institution that is in compliance with current law would not be required to take any different or additional action. The Bureau believes that a financial institution would adopt the proposed alternative delivery method only if it expected the costs of complying with the proposed alternative delivery method would be lower than the costs of complying with current Regulation P.

By definition, the expected cost savings to financial institutions from the proposed revisions to § 1016.9(c) is the expected number of annual privacy notices that would be provided through the proposed alternative delivery method multiplied by the expected reduction in the cost per-notice from using the alternative delivery method. As explained below, many financial institutions would not be able to use the proposed alternative delivery method without changing their information sharing practices. For example, the Bureau believes that few financial institutions would find it in their interest to change information sharing practices just to reduce the costs of providing the annual privacy notice. Thus, the first step in estimating the expected cost savings to financial institutions from proposed § 1016.9(c)(2) would be to identify the financial institutions whose current information sharing practices would allow them to use the proposed alternative method. The Bureau would then need to determine their currents costs for providing the annual privacy notices and the expected costs of providing these notices under proposed § 1016.9(c)(2).[70]

The Bureau does not have sufficient data to perform every step of this analysis, but it performed a number of analyses and outreach activities to approximate the expected cost savings. Regarding banks, the Bureau examined the privacy policies of the 19 banks with assets over $100 billion as well as the privacy policies of 106 additional banks selected through random sampling.[71] The Bureau found that the overall average rate at which banks' information sharing practices would make them eligible for using the alternative delivery method if other conditions were met is 80%. However, only 18% of sampled banks with assets over $10 billion could clearly use the proposed alternative delivery method, while 81% of sampled banks with assets of $10 billion or less and 88% of sampled banks with assets of $500 million or less could clearly use the proposed alternative delivery method. These results indicate that a large majority of smaller banks would likely be able to use the proposed alternative delivery method but most of the largest banks would not.[72]

One caveat regarding these estimates and the ones that follow concerns the use of consolidated privacy notices by entities regulated by different agencies. Entities that could comply with Regulation P by adopting the alternative delivery method are not likely to do so unless they have large numbers of readily identified customers with whom compliance with GLBA does not further require compliance with the GLBA regulations of other agencies. While the Bureau does not have data on the frequency with which entities that use consolidated privacy notices also meet these additional conditions, the Bureau believes that many entities that use consolidated privacy notices are larger financial institutions with information sharing practices that would not allow them to use the alternative delivery method for compliance with Regulation P. The Bureau's estimates regarding the adoption of the alternative delivery method are accurate, notwithstanding the use of consolidated privacy notices, if the use of consolidated privacy notices is highly correlated with information sharing practices that alone would prevent the adoption of the alternative delivery mechanism. The Bureau requests data and other factual information regarding this correlation and more generally regarding the extent to which the use of consolidated privacy notices may prevent the adoption of the alternative delivery method.

The Bureau also examined the privacy policies of the four credit unions with assets over $10 billion as well as the privacy policies of 50 additional credit unions selected through random sampling. The Bureau found that two of the four credit unions with assets over $10 billion could clearly use the proposed alternative delivery method without changing their information sharing policies. Further, 62% of sampled credit unions with assets over $500 million could clearly use the alternative delivery method. However, the Bureau also found that only 13 of the 25 sampled credit unions with assets of $500 million or less either posted the model privacy form on their Web sites or provided enough information about their sharing practices to permit a clear determination regarding whether the alternative delivery method would be available to them (2 of the 25 did not have Web sites). The Bureau found that 11 of the 13 (85%) for which a determination could be made would be able to use the proposed alternative delivery method, and the Bureau believes that a significant majority of the sample of 25 would be able to use the proposed alternative delivery method (perhaps after adopting the model form). For purposes of this analysis, the Bureau conservatively assumes that 11 of the 25 sampled credit unions with assets of $500 million or less would be able to use the proposed alternative delivery method and requests comment on how to improve this estimate.

Regarding non-depository financial institutions, the Bureau believes based on initial outreach that a majority are likely to be able to use the alternative delivery method. For instance, the prohibition on disclosing information to third parties in the Fair Debt Collection Practices Act (FDCPA) leads the Bureau to believe that financial institutions subject to those limits likely would be able to use the alternative delivery method when GLBA notice requirements apply.[73] The Bureau will

[69] *See* Cranor et al. (2013). Their findings (Table 2) imply that at most 15% of the 3,422 FDIC insured depositories that post the model privacy form on their Web sites offer at least one voluntary opt out.

[70] The analysis that follows makes certain additional assumptions about adjustments that financial institutions are not likely to make just to be able to adopt the alternative delivery method. For example, small institutions might not find it worthwhile to establish Web sites or toll-free numbers given the relatively small savings in costs that might result. These assumptions are discussed further below.

[71] The Bureau defined five strata for banks under $100 billion and three strata for credit unions under $10 billion and drew random samples from each of the strata. We obtained privacy policies from the Web sites of financial institutions.

[72] As discussed in the Section-by-Section Analysis, a banking trade association commenting on the Streamlining RFI estimated that 75% of banks do not change their notices from year to year and do not share information in a way that gives rise to customer opt-out rights. The Bureau's estimate is consistent with this comment.

[73] FDCPA section 805(b) prohibits communication with third parties in connection with the collection of a debt.

continue to refine its knowledge of the information sharing practices of non-depository financial institutions and the extent to which they may be able to use the proposed alternative delivery method. The Bureau requests comment and the submission of information relevant to this issue.

Although these initial estimates provide some insight into the numbers of banks and credit unions that could use the alternative delivery method, the Bureau does not have precise data on the number of annual privacy notices these institutions currently provide. Thus, it is not possible to directly compute the total number of annual privacy notices that would no longer be sent. The Bureau does, however, have information on the burden of providing the annual privacy notices from the Paperwork Reduction Act Supporting Statements for Regulation P that are on file with the Office of Management and Budget. This information can be used to obtain an initial estimate of the ongoing savings from the alternative delivery method.[74]

In estimating this savings for banks and credit unions, the analysis above establishes that it is essential to take into account the variation by the size of banks and credit unions in the likelihood they could use the alternative delivery method. To ensure that these differences inform the estimates, the Bureau allocated the total burden of providing the annual privacy notices to asset classes in proportion to the share of assets in the class. The Bureau then estimated an amount of burden reduction specific to each asset class using the results from the sampling described above. The total burden reduction is then the sum of the burden reductions in each asset class. For banks and credit unions combined, the estimated reduction in burden using this methodology is approximately $6 million annually. Regarding non-depositories, the Bureau believes that a large fraction of non-depositories of all sizes would be able to use the alternative delivery method and used the overall average rate at which banks could utilize the alternative delivery method. The estimated reduction in burden is approximately $10 million annually.[75] Thus, the Bureau believes that the total reduction in burden is approximately $16 million dollars annually. This represents about 56% of the total $28.5 million annual cost of providing the annual privacy notice and opt-out notices under Regulation P.[76] The Bureau requests comment on this preliminary analysis as well as the submission of additional data that could inform the Bureau's consideration of the cost savings to financial institutions.

The Bureau notes that these estimates of ongoing savings are gross figures and do not take into account any ongoing costs associated with the alternative delivery method. The Bureau believes that such ongoing costs would be minimal. They would consist of additional text on a notice or disclosure the institution already provides, additional phone calls from consumers requesting that the model form be mailed, and the costs of mailing the forms prompted by these calls. The Bureau currently believes that few consumers will request that the form be mailed in order to read it or to exercise any voluntary opt-out right. There would be minimal ongoing costs associated with the alternative delivery method from maintaining a Web page if a financial institution already has a Web site and none whatsoever if the financial institution already has a Web page dedicated to the annual privacy policy. The Bureau's research indicates that all but the smallest banks and credit unions have Web sites and the estimates of cost savings assume that they would not adopt the alternative delivery method. The Bureau is not aware of information regarding the use of Web sites by non-depository financial institutions and welcomes information relevant to understanding the costs to these institutions of adopting the alternative delivery method.

In developing the proposed rule, the Bureau considered alternatives to the requirements it is proposing. As discussed at length above, the Bureau believes that the alternative delivery method might not adequately alert customers to their ability to opt out of certain types of information sharing were it available where a financial institution shares beyond the exceptions in §§ 1016.13, 1016.14, and 1016.15. Thus, the Bureau considered but is not proposing an option in which the alternative delivery method could be used where a financial institution shares beyond one or more of these exceptions. For the same reason, the Bureau considered but is not proposing an option in which the alternative delivery method could be used where a financial institution shares information in a way that triggers information sharing opt-out rights under section 603(d)(2)(A)(iii) of the FCRA. On the other hand, the Bureau considered but is not proposing an option in which the alternative delivery method could never be used where a financial institution provides an opt-out right under the Affiliate Marketing Rule. A financial institution may use the alternative delivery method if it fulfills its opt-out obligations under the Affiliate Marketing Rule separately from the annual privacy notice. This case is distinguishable from the other two in that the customer is not dependent on the alternative delivery method to be made aware of the opt-out right under the Affiliate Marketing Rule.

The Bureau also considered alternatives to the requirements regarding the types of information that cannot have changed since the previous annual notice to be able to use the alternative delivery method. The Bureau discussed these alternatives at length above and incorporates that discussion here.

C. Potential Specific Impacts of the Rule

The Bureau currently understands that 81% of banks with $10 billion or less in assets would be able to utilize the alternative delivery method, with a greater opportunity for utilization among the smaller banks. Thus, the proposed rule may have differential impacts on insured depository institutions with $10 billion or less in assets as described in section 1026 of the Dodd-Frank Act. The Bureau also currently understands that at least 45% of credit unions with $10 billion or less in assets, and perhaps substantially more, would be able to utilize the alternative delivery method, with a greater opportunity for utilization among banks in the middle of this group. The uncertainty reflects the relatively large number of very small credit unions that do not post the model form on their Web sites and which therefore could not clearly use the alternative delivery method.

The Bureau does not believe that the proposed rule would reduce consumers' access to consumer financial products or services or have a unique impact on rural consumers.

VI. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, requires each agency to consider the potential impact of its regulations on small entities, including small businesses, small governmental units,

[74] It is worth noting at the outset that, with this methodology, the total cost of providing the annual privacy notice is approximately $28.5 million per year.

[75] Note that this figure excludes auto dealers. Auto dealers are regulated by the FTC and would not be directly impacted by this amendment to Regulation P.

[76] The total reduction is approximately $17 million annually if 85% of credit unions with assets of $500 million or less use the proposed alternative delivery method. This represents about 60% of the total annual cost of providing these notices.

and small not-for-profit organizations. The RFA generally requires an agency to conduct an initial regulatory flexibility analysis (IRFA) and a final regulatory flexibility analysis (FRFA) of any rule subject to notice-and-comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.[77] The Bureau also is subject to certain additional procedures under the RFA involving the convening of a panel to consult with small business representatives prior to proposing a rule for which an IRFA is required.[78]

An IRFA is not required here because the proposal, if adopted, would not have a significant economic impact on a substantial number of small entities. The Bureau does not expect the proposal to impose costs on small entities. All methods of compliance under current law will remain available to small entities if the proposal is adopted. Thus, a small entity that is in compliance with current law need not take any different or additional action if the proposal is adopted. In addition, as discussed above, the Bureau believes that the proposed alternative method would allow many institutions to reduce their costs, and that small financial institutions may be more likely to qualify for using the alternative delivery method than large institutions based on the complexity of large institutions' information sharing practices.

Accordingly, the undersigned certifies that this proposal, if adopted, would not have a significant economic impact on a substantial number of small entities.

VII. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA),[79] Federal agencies are generally required to seek Office of Management and Budget (OMB) approval for information collection requirements prior to implementation. This proposal would amend Regulation P, 12 CFR part 1016. The collections of information related to Regulation P have been previously reviewed and approved by OMB in accordance with the PRA and assigned OMB Control Number 3170–0010. Under the PRA, the Bureau may not conduct or sponsor, and, notwithstanding any other provision of law, a person is not required to respond to an information collection, unless the information collection displays a valid control number assigned by OMB.

As explained below, the Bureau has determined that this proposed rule does not contain any new or substantively revised information collection requirements other than those previously approved by OMB. Under this proposal, a financial institution will be permitted, but not required, to use an alternative delivery method for the annual privacy notice if:

(1) It does not share information with nonaffiliated third parties other than for purposes covered by the exclusions allowed under Regulation P;

(2) It does not include on its annual privacy notice an opt out under section 603(d)(2)(A)(iii) of the FCRA;

(3) The annual privacy notice is not the only method used to satisfy the requirements of section 624 of the FCRA and subpart C of part 1022, if applicable;

(4) Certain information it is required to convey on its annual privacy notice has not changed since it provided the immediately previous privacy notice; and

(5) It uses the Regulation P model privacy form for its annual privacy notice.

Under the proposed alternative delivery method, the financial institution would have to:

(1) Convey at least annually on another notice or disclosure that its privacy notice is available on its Web site and will be mailed upon request to a toll-free number. Among other things, the institution would have to include a specific web address that takes the customer directly to the privacy notice;

(2) Post its current privacy notice continuously on a page of its Web site that contains only the privacy notice, without requiring a login or any conditions to access the page; and

(3) Promptly mail its current privacy notice to customers who request it by telephone.

Under Regulation P, the Bureau generally accounts for the paperwork burden for the following respondents pursuant to its enforcement/supervisory authority: Insured depository institutions with more than $10 billion in total assets, their depository institution affiliates, and certain non-depository institutions. The Bureau and the FTC generally both have enforcement authority over non-depository institutions subject to Regulation P. Accordingly, the Bureau has allocated to itself half of the final rule's estimated burden to non-depository institutions subject to Regulation P. Other Federal agencies, including the FTC, are responsible for estimating and reporting to OMB the paperwork burden for the institutions for which they have enforcement and/or supervision authority. They may use the Bureau's burden estimation methodology, but need not do so.

The Bureau does not believe that this proposed rule would impose any new or substantively revised collections of information as defined by the PRA, and instead believes that it would have the overall effect of reducing the previously approved estimated burden on industry for the information collections associated with the Regulation P annual privacy notice. Using the Bureau's burden estimation methodology, the reduction in the estimated ongoing burden would be approximately 567,000 hours annually for the roughly 13,500 banks and credit unions subject to the proposed rule, including Bureau respondents, and the roughly 29,400 entities regulated by the Federal Trade Commission also subject to the proposed rule. The reduction in estimated ongoing costs from the reduction in ongoing burden would be approximately $16 million annually.

The Bureau believes that the one-time cost of adopting the alternative delivery method for financial institutions that would adopt it is *de minimis*. Financial institutions that already use the model form and would adopt the alternative delivery method would incur minor one-time legal, programming and training costs. These institutions would have to communicate on a notice or disclosure they are already issuing under any other provision of law that the privacy notice is available. The expense of adding this notice would be minor. Staff may need some additional training in storing copies of the model form and sending it to customers on request. Institutions that do not use the model form would incur a one-time cost for creating one. However, since the promulgation of the model privacy form in 2009, an Online Form Builder has existed which any institution can use to readily create a unique, customized privacy notice using the model form template.[80] The Bureau assumes that financial institutions that do not currently have Web sites or provide a toll-free number to their customers would not choose to comply with these requirements in order to use the alternative delivery method.

The Bureau's methodology for estimating the reduction in ongoing burden was discussed at length above. The Bureau defined five strata for banks under $100 billion and three strata for credit unions under $10 billion, drew

[77] 5 U.S.C. 603–605.

[78] 5 U.S.C. 609.

[79] 44 U.S.C. 3501 *et seq.*

[80] This Online Form Builder is available at *http://www.federalreserve.gov/newsevents/press/bcreg/20100415a.htm.*

random samples from each of the strata (separately for banks and credit unions) and examined the GLBA privacy notices available on the financial institutions' Web sites, if any. The Bureau separately examined the Web sites of all banks over $100 billion (one additional bank stratum) and all credit unions over $10 billion (one additional credit union stratum). This process provided an estimate of the fraction of institutions within each bank or credit union stratum which would likely be able to use the alternative delivery method. In order to compute the reduction in ongoing burden (by stratum and overall) for these financial institutions, the Bureau apportioned the existing ongoing burden to each stratum according to the share of overall assets held by the financial institutions within the stratum. This was done separately for banks and credit unions. Note that this procedure ensures that the largest financial institutions, while few in number, are apportioned most of the existing burden. The Bureau then multiplied the estimate of the fraction of institutions within each stratum that would likely be able to use the alternative delivery method by the estimate of the existing ongoing burden within each stratum, separately for banks and credit unions. As discussed above, the largest bank and credit union strata tended to have the lowest share of financial institutions that could use the alternative delivery method.

For the non-depository institutions subject to the FTC's enforcement authority that are subject to the Bureau's Regulation P, the Bureau estimated the reduction in ongoing burden by applying the overall share of banks that would likely be able to use the alternative delivery method (80%) to the current ongoing burden on non-depository financial institutions (exclusive of auto dealers) from providing the annual privacy notices and opt outs.

The Bureau takes all of the reduction in ongoing burden from banks and credit unions with assets $10 billion and above and half the reduction in ongoing burden from the non-depository institutions subject to the FTC enforcement authority that are subject to the Bureau's Regulation P. The total reduction in ongoing burden taken by the Bureau is 256,000 hours or $6.2 million annually.

The Bureau has determined that the proposed rule does not contain any new or substantively revised information collection requirements as defined by the PRA and that the burden estimate for the previously-approved information collections should be revised as explained above. The Bureau welcomes comments on these determinations or any other aspect of the proposal for purposes of the PRA. Comments should be submitted as outlined in the **ADDRESSES** section above. All comments will become a matter of public record.

List of Subjects in 12 CFR Part 1016

Banks, banking, Consumer protection, Credit, Credit unions, Foreign banking, Holding companies, National banks, Privacy, Reporting and recordkeeping requirements, Savings associations, Trade practices.

Authority and Issuance

For the reasons set forth in the preamble, the Bureau proposes to amend Regulation P, 12 CFR part 1016, as set forth below:

PART 1016—PRIVACY OF CONSUMER FINANCIAL INFORMATION (REGULATION P)

■ 1. The authority citation for part 1016 continues to read as follows:

Authority: 12 U.S.C. 5512, 5581; 15 U.S.C. 6804.

Subpart A—Privacy and Opt-Out Notices

■ 2. Section 1016.9(c) is revised to read as follows:

§ 1016.9 Delivering privacy and opt out notices.

* * * * *

(c) *Annual notices only.* (1) *Reasonable expectation.* You may reasonably expect that a customer will receive actual notice of your annual privacy notice if:

(i) The customer uses your Web site to access financial products and services electronically and agrees to receive notices at the Web site, and you post your current privacy notice continuously in a clear and conspicuous manner on the Web site; or

(ii) The customer has requested that you refrain from sending any information regarding the customer relationship, and your current privacy notice remains available to the customer upon request.

(2) *Alternative method for providing certain annual notices.* (i) Notwithstanding paragraph (a) of this section, you may use the alternative method described in paragraph (c)(2)(ii) of this section to satisfy the requirement in § 1016.5(a)(1) to provide a notice if:

(A) You do not share information with nonaffiliated third parties other than for purposes under §§ 1016.13, 1016.14, and 1016.15;

(B) You do not include on your annual privacy notice pursuant to § 1016.6(a)(7) an opt out under section 603(d)(2)(A)(iii) of the Fair Credit Reporting Act (15 U.S.C. 1681a(d)(2)(A)(iii));

(C) The annual privacy notice is not the only notice provided to satisfy the requirements of section 624 of the Fair Credit Reporting Act (15 U.S.C. 1681s–3) and subpart C of part 1022 of this chapter, if applicable;

(D) The information you are required to convey on your annual privacy notice pursuant to § 1016.6(a)(1) through (5), (8), and (9) has not changed since you provided the immediately previous privacy notice, initial or annual, to the customer; and

(E) You use the model privacy form in the appendix to this part for your annual privacy notice.

(ii) For an annual privacy notice that meets the requirements in paragraph (c)(2)(i) of this section, you satisfy the requirement in § 1016.5(a)(1) to provide a notice if you:

(A) Convey in a clear and conspicuous manner not less than annually on a notice or disclosure you are required or expressly and specifically permitted to issue under any other provision of law that your privacy notice is available on your Web site and will be mailed to the customer upon request by telephone to a toll-free number. The statement must state that your privacy notice has not changed and must include a specific Web address that takes the customer directly to the page where the privacy notice is posted and a toll-free telephone number for the customer to request that it be mailed;

(B) Post your current privacy notice continuously in a clear and conspicuous manner on a page of your Web site that contains only the privacy notice, without requiring the customer to provide any information such as a login name or password or agree to any conditions to access the page; and

(C) Mail promptly your current privacy notice to those customers who request it by telephone.

(iii) An example of a statement that satisfies paragraph (c)(2)(ii)(A) of this section is: Privacy Notice [in boldface]—Federal law requires us to tell you how we collect, share, and protect your personal information. Our privacy policy has not changed and you may review our policy and practices with respect to your personal information at [Web address] or we will mail you a free copy upon request if you call us toll-free at [toll-free telephone number].

* * * * *

Dated: May 6, 2014.

Richard Cordray,

Director, Bureau of Consumer Financial Protection.

[FR Doc. 2014–10713 Filed 5–12–14; 8:45 am]

BILLING CODE 4810–AM–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1

[REG–140974–11]

RIN 1545–BK66

Definitions and Reporting Requirements for Shareholders of Passive Foreign Investment Companies; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to a notice of proposed rulemaking by cross reference to temporary regulations.

SUMMARY: This document contains corrections to a notice of proposed rulemaking by cross-reference to temporary regulations (REG–140974–11) that was published in the **Federal Register** on Tuesday, December 31, 2013 (78 FR 79650). The proposed regulations provide guidance on determining the ownership of a passive foreign investment company (PFIC), the annual filing requirements for shareholders of PFICs, and an exclusion from certain filing requirements for shareholders that constructively own interests in certain foreign corporations.

DATES: The comment period for written or electronic comments and requests for a public hearing for the notice of proposed rulemaking by cross-reference to temporary regulations published at 78 FR 79650, December 31, 2013, ended on March 31, 2014.

FOR FURTHER INFORMATION CONTACT: Susan E. Massey at (202) 317–6934 (not a toll free number).

SUPPLEMENTARY INFORMATION:

Background

The notice of proposed rulemaking by cross-reference to temporary regulations (REG–140974–11) that is the subject of this document is under sections 1297, 1298, 6038, and 6046 of the Internal Revenue Code.

Need for Correction

As published, the notice of proposed rulemaking by cross-reference to temporary regulations (REG–140974–11) contains errors that may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the notice of proposed rulemaking (REG–140974–11), that was the subject of FR Doc. 2013–30845, is corrected as follows:

■ 1. The authority citation for part 1 is amended by correcting the sectional authority for § 1.1298–1 to read in part as follows:

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

Section 1.1298–1 also issued under 26 U.S.C. 1298(f) and (g) * * *

§ 1.1298–1 [Corrected]

■ 2. On Page 79652, column 1, the seventh line from the top of the page, the language ''as the text of § 1.1298–1T(h) published'' is corrected to read ''as the text of § 1.1298–1T published''.

Martin V. Franks,

Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).

[FR Doc. 2014–10858 Filed 5–12–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF EDUCATION

34 CFR Chapter III

[Docket ID ED–2014–OSERS–0027]

Proposed Priority—Assistive Technology: Alternative Financing Program

[CFDA Number: 84.224D.]

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Proposed priority.

SUMMARY: The Assistant Secretary for Special Education and Rehabilitative Services proposes a priority under the Assistive Technology Alternative Financing Program. The Assistant Secretary may use this priority for competitions in fiscal year (FY) 2014 and later years. This priority is designed to ensure that the Department funds high-quality assistive technology alternative financing programs that meet rigorous standards in order to enable individuals with disabilities to access and acquire assistive technology devices and services necessary to achieve education, community living, and employment goals.

DATES: We must receive your comments on or before June 12, 2014.

ADDRESSES: Submit your comments through the Federal eRulemaking Portal or via postal mail, commercial delivery, or hand delivery. We will not accept comments submitted by fax or by email or those submitted after the comment period. To ensure that we do not receive duplicate copies, please submit your comments only once. In addition, please include the Docket ID at the top of your comments.

- *Federal eRulemaking Portal:* Go to *www.regulations.gov* to submit your comments electronically. Information on using Regulations.gov, including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under ''Are you new to the site?''
- *Postal Mail, Commercial Delivery, or Hand Delivery:* If you mail or deliver your comments about this notice, address them to Brian Bard, U.S. Department of Education, 400 Maryland Avenue SW., Room 5021, Potomac Center Plaza (PCP), Washington, DC 20202–2800.

Privacy Note: The Department's policy is to make all comments received from members of the public available for public viewing in their entirety on the Federal eRulemaking Portal at www.regulations.gov. Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available.

FOR FURTHER INFORMATION CONTACT: Brian Bard. Telephone: (202) 245–7345.

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:

Invitation to Comment: We invite you to submit comments regarding this notice. To ensure that your comments have maximum effect in developing the final priority, we urge you to identify clearly the specific topic that each comment addresses.

We invite you to assist us in complying with the specific requirements of Executive Orders 12866 and 13563 and their overall requirement of reducing regulatory burden that might result from this proposed priority. Please let us know of any further ways we could reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the program.

During and after the comment period, you may inspect all public comments about this notice in Room 5025, 550 12th Street SW., PCP, Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Washington, DC time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals with Disabilities in Reviewing the Rulemaking Record: On request, we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this notice. If you want to schedule an appointment for this type of accommodation or auxiliary aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Purpose of Program: The goal of the Assistive Technology Alternative Financing Program is to provide funds to allow greater access by people with disabilities to affordable financing for the purchase of specialized technologies they need to live independently, succeed at school and work, and otherwise lead active and productive lives.

Program Authority: Consolidated Appropriations Act, 2014 (Pub. L. 113–76)

Applicable Program Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 84, 86, 97, 98, and 99. (b) The Education Department suspension and debarment regulations in 2 CFR part 3485.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian tribes.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

Note: In general, EDGAR applies to these grants, except to the extent it is inconsistent with the applicable statute for the program.

Proposed Priority:

This notice contains one proposed priority.

Assistive Technology Alternative Financing Program.

Background:

Many individuals with disabilities do not have the private financial resources to purchase the AT they need. In addition, programs such as Medicaid, Medicare, and vocational rehabilitation cannot meet the growing demand for AT. Financial loan services, such as alternative financing programs (AFPs), offer individuals with disabilities affordable options that can significantly enhance their access to AT. These programs offer alternatives to the traditional payment options of public assistance and out-of-pocket financing, and maximize independence and community participation by individuals with disabilities through the acquisition of AT.

Between 2000 and 2006, the Office of Special Education and Rehabilitative Services (OSERS) awarded competitive one-year grants to 33 States under title III of the Assistive Technology Act of 1998 (AT Act of 1998) for the establishment, maintenance, or expansion of AFPs. The AFPs feature one or more alternative financing mechanisms that provide loans for individuals with disabilities and their family members, guardians, advocates, and authorized representatives to purchase AT devices and services.

Although only funded for one year, these AFPs were required to implement a sustainability plan and maintain permanent programs that continue project activities after the end of the project period. The 33 States that were awarded grants during fiscal years 2000 through 2006 received a cumulative total of $60,285,260 in Federal funding. All of these AFPs are still operating. From FY 2000 through the end of FY 2012, AFPs using alternative financing mechanisms such as a revolving loan or partnership loan program processed 13,593 loans totaling $148,021,369 in financial assistance for the purchase of AT devices and services, an amount more than twice the original Federal funding.

To build upon the success of these AFPs and to help individuals with disabilities purchase assistive technology devices, the Consolidated Appropriations Act, 2012 (Pub. L. 112–74) provided $1,996,220 for competitive grants to support AFPs in FY 2012; and the Continuing Appropriations Act, 2013 (Pub. L. 113–46), provided an additional $1,891,806 to support AFPs in FY 2013. FY 2012 and 2013 funds were used to establish three new AFPs and to expand two existing high performing AFPs. There are currently a total of 36 AFPs.

The Consolidated Appropriations Act of 2014 (the Act) provides $2,000,000 for competitive grants to support AFPs that provide for the purchase of AT devices, such as a low-interest loan fund, an interest buy-down program, a revolving loan fund, a loan guarantee, or an insurance program. The Act requires applicants for these grants to provide an assurance that, and information describing the manner in which, the AFP will expand and emphasize consumer choice and control. It also specifies that State agencies and community-based disability organizations that are directed by and operated for individuals with disabilities shall be eligible to compete. In addition, language in the Manager's Statement accompanying the Act provides that applicants should incorporate credit-building activities in their programs, including financial education and information about other possible funding sources. Successful applicants must emphasize consumer choice and control and build programs that will provide financing for the full array of AT devices and services and ensure that all people with disabilities, regardless of type of disability or health condition, age, level of income, and residence have access to the program.

While all States can apply, the Department's objective is to establish AFPs in States that have not previously received funding from the Federal Government for this purpose or to expand small or underfunded AFPs that have received less than $1 million from competitions under title III of the AT Act of 1998 during FYs 2000 through 2006 and under the Appropriations Acts during FY 2012 and 2013.

Proposed Priority:

The Assistant Secretary for Special Education and Rehabilitative Services proposes a priority to fund one-year grant awards to support AFPs that assist individuals with disabilities to obtain financial assistance for AT devices and services.

Under this priority, applicants must establish or expand one or more of the following types of AFPs:

(1) A low-interest loan fund.

(2) An interest buy-down program.

(3) A revolving loan fund.

(4) A loan guarantee or insurance program.

(5) Another mechanism that is approved by the Secretary.

AFPs must be designed to allow individuals with disabilities and their family members, guardians, advocates, and authorized representatives to purchase AT devices or services. If family members, guardians, advocates, and authorized representatives (including employers who have been designated by an individual with a disability as an authorized representative) receive AFP support to purchase AT devices or services, the purchase must be solely for the benefit of an individual with a disability.

To be considered for funding, an applicant must identify the type or types of AFP(s) to be supported by the grant and submit all of the following assurances:

(1) *Permanent Separate Account:* An assurance from the applicant that—

(a) All funds that support the AFP, including funds repaid during the life of the program, will be deposited in a permanent separate account and identified and accounted for separately from any other funds;

(b) If the grantee administering the program invests funds within this account, the grantee will invest the

funds in low-risk securities in which a regulated insurance company may invest under the law of the State; and

(c) The grantee will administer the funds with the same judgment and care that a person of prudence, discretion, and intelligence would exercise in the management of the financial affairs of that person.

(2) *Permanence of the Program:* An assurance that the AFP will continue on a permanent basis.

An applicant's obligation to implement the AFP consistent with all of the requirements, including reporting requirements, continues until there are no longer any funds available to operate the AFP and all outstanding loans have been repaid. If a grantee decides to terminate its AFP while there are still funds available to operate the program, the grantee must return the funds remaining in the permanent separate account to the U.S. Department of Education except for funds being used for grant purposes, such as loan guarantees for outstanding loans. However, before closing out its grant, the grantee also must return any principal and interest remitted to it on outstanding loans and any other funds remaining in the permanent separate account, such as funds being used as loan guarantees for those loans.

(3) *Consumer Choice and Control:* An assurance that, and information describing the manner in which, the AFP will expand and emphasize consumer choice and control.

(4) *Supplement-Not-Supplant:* An assurance that the funds made available through the grant to support the AFP will be used to supplement and not supplant other Federal, State, and local public funds expended to provide alternative financing mechanisms.

(5) *Use and Control of Funds:* An assurance that—funds comprised of the principal and interest from the account described in paragraph (1) *Permanent Separate Account* of this priority will be available solely to support the AFP.

This assurance regarding the use and control of funds applies to all funds derived from the AFP including the original Federal award, AFP funds generated by either interest bearing accounts or investments, and all principal and interest paid by borrowers of the AFP who are extended loans from the permanent separate account.

(6) *Indirect Costs:* An assurance that the percentage of the funds used for indirect costs will not exceed 10 percent of the portion of the grant award that is used annually for program administration (excluding funds used for loan activity).

For each 12-month budget period, grantees must recalculate their allowable indirect cost rate, which may not exceed 10 percent of the portion of the grant award that is used annually for program administration related to the AFP.

(7) *Administrative Policies and Procedures:* An assurance that the applicant receiving a grant under this priority will submit to the Secretary for review and approval within the 12 month project period the following policies and procedures for administration of the AFP:

(a) A procedure to review and process in a timely manner requests for financial assistance for immediate and potential technology needs, including consideration of methods to reduce paperwork and duplication of effort, particularly relating to need, eligibility, and determination of the specific AT device or service to be financed through the program.

(b) A policy and procedure to ensure that individuals are allowed to apply for financing for a full array of AT devices and services regardless of type of disability or health condition, age, income level, location of residence in the State, or type of AT device or service for which financing is requested through the program. It is permissible for programs to target individuals with disabilities who would have been denied conventional financing as a priority for AFP funding.

(c) A procedure to ensure consumer choice and consumer-controlled oversight of the program.

(d) A sustainability plan, including information on the percentage of funds expected to be used for operating expenses and loan capital.

(8) *Data Collection:* An assurance that the applicant will collect and report data requested by the Secretary in the format, with the frequency, and using the method established by the Secretary until there are no longer any funds available to operate the AFP and all outstanding loans have been repaid.

(9) *Credit Building Activities:* An assurance that the AFP will incorporate credit-building activities into their programs, including financial education and information about other possible funding sources.

Competitive Preference Priorities: Within this priority, we propose two competitive preference priorities.

These priorities are:

Need to Establish an AFP (10 additional points.): This applies to an applicant located in a State or outlying area where an AFP grant has not been previously awarded under title III of the AT Act of 1998 or in FY 2012 or FY 2013 for Assistive Technology Alternative Financing Programs funded under the Consolidated Appropriations Acts, 2012 and 2013.

Need to Expand an AFP (5 additional points.): This applies to an applicant located in a State or outlying territory where an AFP grant has been previously awarded under title III of the AT Act of 1998 or in FY 2012 or FY 2013 for Assistive Technology Alternative Financing Programs under the Consolidated Appropriations Act, 2012, but the State or territory has received less than a total of $1 million in Federal grant funds under title III of the AT Act of 1998 during fiscal years 2000 through 2006 and the Federal grant funds awarded in FY 2012 and FY 2013 under the Consolidated Appropriations Act, 2012 for the operation of its AFP.

Types of Priorities:

When inviting applications for a competition using one or more priorities, we designate the type of each priority as absolute, competitive preference, or invitational through a notice in the **Federal Register**. The effect of each type of priority follows:

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority, we are particularly interested in applications that meet the priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

Final Priority:

We will announce the final priority in a notice in the **Federal Register**. We will determine the final priority after considering responses to this notice and other information available to the Department. This notice does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria, subject to meeting applicable rulemaking requirements.

Note: This notice does *not* solicit applications. In any year in which we choose to use this priority, we invite applications through a notice in the **Federal Register**.

Executive Orders 12866 and 13563

Regulatory Impact Analysis

Under Executive Order 12866, the Secretary must determine whether this regulatory action is ''significant'' and, therefore, subject to the requirements of the Executive order and subject to review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action likely to result in a rule that may—

(1) Have an annual effect on the economy of $100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities in a material way (also referred to as an ''economically significant'' rule);

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles stated in the Executive order.

This proposed regulatory action is not a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866.

We have also reviewed this proposed regulatory action under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency—

(1) Propose or adopt regulations only on a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account—among other things and to the extent practicable—the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency ''to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible.'' The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include ''identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes.''

We are issuing this proposed priority only on a reasoned determination that its benefits would justify its costs. In choosing among alternative regulatory approaches, we selected those approaches that would maximize net benefits. Based on the analysis that follows, the Department believes that this regulatory action is consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action would not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

In accordance with both Executive orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs are those resulting from statutory requirements and those we have determined as necessary for administering the Department's programs and activities.

The benefits of the Assistive Technology Alternative Financing Program have been well established since FY 2000 through the successful, ongoing performance of alternative financing programs funded under title III of the AT Act of 1998. This proposed priority would promote financial loan programs that will better prepare and assist individuals with disabilities to achieve education, community living, and employment goals in today's challenging economy.

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 early notification of our specific plans and actions for this program.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

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

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

Dated: May 7, 2014.

Michael K. Yudin,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

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DEPARTMENT OF EDUCATION

34 CFR Chapter III

[Docket ID ED–2014–OSERS–0011]

Proposed Priority—National Institute on Disability and Rehabilitation Research—Advanced Rehabilitation Research Training Program

[CFDA Number: 84.133P–5.]

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Proposed priority.

SUMMARY: The Assistant Secretary for Special Education and Rehabilitative Services proposes a priority for the Advanced Rehabilitation Research Training (ARRT) Program administered by the National Institute on Disability and Rehabilitation Research (NIDRR). Specifically, this notice proposes a priority for an Advanced Rehabilitation Research Policy Fellowship. We take this action to focus attention on an area

of national need. We intend the priority to strengthen the capacity of the disability and rehabilitation fields to train researchers to conduct advanced policy research in the areas of rehabilitation and disability.

DATES: We must receive your comments on or before June 12, 2014.

ADDRESSES: Submit your comments through the Federal eRulemaking Portal or via postal mail, commercial delivery, or hand delivery. We will not accept comments submitted by fax or by email or those submitted after the comment period. To ensure that we do not receive duplicate copies, please submit your comments only once. In addition, please include the Docket ID at the top of your comments.

• *Federal eRulemaking Portal:* Go to *www.regulations.gov* to submit your comments electronically. Information on using Regulations.gov, including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under ''Are you new to the site?''

• *Postal Mail, Commercial Delivery, or Hand Delivery:* If you mail or deliver your comments about these proposed regulations, address them to Patricia Barrett, U.S. Department of Education, 400 Maryland Avenue SW., Room 5142, Potomac Center Plaza (PCP), Washington, DC 20202–2700.

Privacy Note: The Department's policy is to make all comments received from members of the public available for public viewing in their entirety on the Federal eRulemaking Portal at *www.regulations.gov.* Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available.

FOR FURTHER INFORMATION CONTACT: Patricia Barrett. Telephone: (202) 245–6211 or by email: *patricia.barrett@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: This notice of proposed priority is in concert with NIDRR's currently approved Long-Range Plan (Plan). The Plan, which was published in the **Federal Register** on April 4, 2013 (78 FR 20299), can be accessed on the Internet at the following site: *www.ed.gov/about/offices/list/osers/nidrr/policy.html.*

Through the implementation of the Plan, NIDRR seeks to: (1) Improve the quality and utility of disability and rehabilitation research; (2) foster an exchange of research findings, expertise, and other information to advance knowledge and understanding of the needs of individuals with disabilities and their family members, including those from among traditionally underserved populations; (3) determine effective practices, programs, and policies to improve community living and participation, employment and health and function outcomes for individuals with disabilities of all ages; (4) identify research gaps and areas for promising research investments; (5) identify and promote effective mechanisms for integrating research and practice; and (6) disseminate research findings to all major stakeholder groups, including individuals with disabilities and their families in formats that are appropriate and meaningful to them.

This notice proposes one priority that NIDRR intends to use for one or more competitions in FY 2014 and possibly later years. NIDRR is under no obligation to make an award under this priority. The decision to make an award will be based on the quality of applications received and available funding. NIDRR may publish additional priorities, as needed.

Invitation to Comment: We invite you to submit comments regarding this proposed priority. To ensure that your comments have maximum effect in developing the final priority, we urge you to identify clearly the specific topic that each comment addresses.

We invite you to assist us in complying with the specific requirements of Executive Orders 12866 and 13563 and their overall requirement of reducing regulatory burden that might result from this proposed priority. Please let us know of any further ways we could reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the program.

During and after the comment period, you may inspect all public comments about this proposed priority in room 5133, 550 12th Street SW., PCP, Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Washington, DC time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals with Disabilities in Reviewing the Rulemaking Record: On request we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this notice. If you want to schedule an appointment for this type of accommodation or auxiliary aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

Purpose of Program: The purpose of the Disability and Rehabilitation Research Projects and Centers Program is to plan and conduct research, demonstration projects, training, and related activities, including international activities, to develop methods, procedures, and rehabilitation technology that maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities, especially individuals with the most severe disabilities, and to improve the effectiveness of services authorized under the Rehabilitation Act of 1973, as amended (Rehabilitation Act).

Advanced Rehabilitation Research Training Program

The purpose of NIDRR's ARRT program, which is funded through the Disability and Rehabilitation Research Projects and Centers Program, is to provide advanced research training and experience to individuals with doctorates or similar degrees who have clinical or other relevant experience. ARRT projects train rehabilitation researchers, including researchers with disabilities, with particular attention to research areas that support the implementation and objectives of the Rehabilitation Act, and that improve the effectiveness of services authorized under the Rehabilitation Act. Additional information on the ARRT program can be found at: *www.ed.gov/rschstat/research/pubs/res-program.html#ARRT.*

Program Authority: 29 U.S.C. 762(g) and 764(b)(2).

Applicable Program Regulations: 34 CFR part 350.

Proposed Priority:

This notice contains one proposed priority.

Advanced Rehabilitation Research Policy Fellowship Program.

Background:

NIDRR's mission is to support the generation of new knowledge and promote its effective use to improve the abilities of individuals with disabilities to participate in community activities of their choice and to enhance society's capacity to provide full opportunities and accommodations for these individuals. NIDRR research focuses on major life domains as identified in NIDRR's Long-Range Plan published in the **Federal Register** on April 4, 2013 (78 FR 20299): (1) Employment, (2) Participation and Community Living, and (3) Health and Function. NIDRR has increasingly recognized the important role of that government policies may

play in the adoption and use of research findings. NIDRR wants to enhance the capacity of the disability and rehabilitation research field to understand the effects of government policies and programs on the outcomes of individuals with disabilities in the areas of employment, health and function, and community living and participation. In particular, NIDRR seeks to increase the capacity of disability and rehabilitation researchers to understand the policy development process, including how policymakers access, adopt, and use research.

Proposed Priority:

The Assistant Secretary for Special Education and Rehabilitative Services proposes a new priority for an ARRT on Rehabilitation Research Policy. This proposed fellowship program will expand the capacity of disability and rehabilitation researchers and scholars to conduct rigorous policy research that addresses issues important to policymakers and practitioners and that contributes to improved outcomes for individuals with disabilities and increased use and adoption of research findings to help shape future disability-related policy. The ARRT must contribute to improving the capacity of disability and rehabilitation researchers to conduct policy research by:

(a) Recruiting and selecting qualified candidates, including individuals with disabilities, for advanced research training on policy issues affecting one of NIDRR's three domains of individual well-being: (1) Community living and participation, (2) employment, or (3) health and function;

(b) Requiring that all Rehabilitation Research Policy Fellows complete a two-year training program in advanced rehabilitation policy-related research and analysis that is multidisciplinary, emphasizes scientific methods, and involves didactic and classroom instruction in current disability policy issues, as well as providing a disability policy research practicum experience;

(c) Providing academic mentorship or guidance, and opportunities for scientific collaboration with qualified researchers at the host institution or another training or sponsoring organization. Other institutions or organizations used as training sites must have the staff and facilities on site to provide a suitable environment for performing high-quality rehabilitation-related policy research;

(d) Providing opportunities for participation in the development of professional presentations and publications, and for attendance at professional conferences and meetings, as appropriate for the individuals' area of study and level of experience;

(e) Requiring that all Rehabilitation Research Policy Fellows complete a policy research project related to the NIDRR domains selected by the applicant (community living and participation, employment, or health and function); and

(f) Ensuring that at least two Fellows out of the total number of Fellows proposed be residential fellows and that each residential fellow spend the equivalent of one year in the Washington, DC metropolitan area to conduct research at the Congress or any relevant Federal department or agency of the fellow's choice within the Federal Executive or Legislative branch. Fellows must secure their own fellowship site placement.

Note 1: The costs associated with providing this residential policy practicum are the responsibility of the grantee, and must be reflected in the applicant's proposed budget.

Note 2: The grantee must ensure that Fellows funded under this program are informed about the anti-lobbying requirements of Federal funding.

Types of Priorities:

When inviting applications for a competition using one or more priorities, we designate the type of each priority as absolute, competitive preference, or invitational through a notice in the **Federal Register**. The effect of each type of priority follows:

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority, we are particularly interested in applications that meet the priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

Final Priority:

We will announce the final priority in a notice in the **Federal Register**. We will determine the final priority after considering responses to this notice and other information available to the Department. This notice does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria, subject to meeting applicable rulemaking requirements.

Note: This notice does *not* solicit applications. In any year in which we choose to use this priority, we invite applications through a notice in the **Federal Register**.

Executive Orders 12866 and 13563

Regulatory Impact Analysis

Under Executive Order 12866, the Secretary must determine whether this regulatory action is ''significant'' and, therefore, subject to the requirements of the Executive order and subject to review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action likely to result in a rule that may—

(1) Have an annual effect on the economy of $100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities in a material way (also referred to as an ''economically significant'' rule);

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles stated in the Executive order.

This proposed regulatory action is not a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866.

We have also reviewed this regulatory action under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency—

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account—among other things and to the extent practicable—the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic,

environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency ''to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible.'' The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include ''identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes.''

We are issuing this proposed priority only upon a reasoned determination that its benefits would justify its costs. In choosing among alternative regulatory approaches, we selected those approaches that would maximize net benefits. Based on the analysis that follows, the Department believes that these proposed priorities are consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action would not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

In accordance with both Executive orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs are those resulting from statutory requirements and those we have determined as necessary for administering the Department's programs and activities.

The benefits of the Disability and Rehabilitation Research Projects and Centers Program have been well established over the years. Projects similar to the RRTCs have been completed successfully, and the proposed priorities will generate new knowledge through research. The new RRTCs will generate, disseminate, and promote the use of new information that would improve outcomes for individuals with disabilities in the areas of community living and participation, employment, and health and function.

Intergovernmental Review: This program is not subject to Executive Order 12372 and the regulations in 34 CFR part 79.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or compact disc) by contacting the Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue SW., Room 5075, PCP, Washington, DC 20202–2550. Telephone: (202) 245–7363. If you use a TDD or TTY, call the FRS, toll free, at 1–800–877–8339.

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

Dated: May 8, 2014.

Michael K. Yudin,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 2014–10957 Filed 5–12–14; 8:45 am]

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DEPARTMENT OF EDUCATION

34 CFR Chapter III

[Docket ID ED–2014–OSERS–0068]

Proposed Priority—Rehabilitation Training: Rehabilitation Long-Term Training Program—Rehabilitation Specialty Areas

[CFDA Number: 84.129C, E, F, H, J, P, Q, R, and W.]

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Proposed priority.

SUMMARY: The Assistant Secretary for Special Education and Rehabilitative Services proposes a priority under the Rehabilitation Training: Rehabilitation Long-Term Training program. The Assistant Secretary may use this priority for competitions in fiscal year (FY) 2014 and later years. This priority is designed to ensure that the Department funds high-quality rehabilitation programs in the following nine rehabilitation specialty areas of national need: (1) Rehabilitation Administration (84.129C); (2) Rehabilitation Technology (84.129E); (3) Vocational Evaluation and Work Adjustment (84.129F); (4) Rehabilitation of Individuals Who Are Mentally Ill (84.129H); (5) Rehabilitation Psychology (84.129J); (6) Rehabilitation of Individuals Who are Blind or Have Vision Impairments (84.129P); (7) Rehabilitation of Individuals Who are Deaf or Hard of Hearing (84.129Q); (8) Job Development and Job Placement Services (84.129R); and (9) Comprehensive System of Personnel Development (84.129W). These programs must meet rigorous standards in order to provide scholars with the training necessary to become qualified rehabilitation professionals who are capable of meeting the current challenges facing State vocational rehabilitation (VR) agencies and related agencies and who can assist individuals with disabilities in achieving high-quality employment outcomes.

DATES: We must receive your comments on or before June 12, 2014.

ADDRESSES: Submit your comments through the Federal eRulemaking Portal or via postal mail, commercial delivery, or hand delivery. We will not accept comments submitted by fax or by email or those submitted after the comment period. To ensure that we do not receive duplicate copies, please submit your comments only once. In addition, please include the Docket ID at the top of your comments.

- *Federal eRulemaking Portal:* Go to *www.regulations.gov* to submit your comments electronically. Information on using Regulations.gov, including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under ''Are you new to the site?''
- *Postal Mail, Commercial Delivery, or Hand Delivery:* If you mail or deliver your comments about these proposed regulations, address them to RoseAnn Ashby, U.S. Department of Education, 400 Maryland Avenue SW., Room 5055, Potomac Center Plaza (PCP), Washington, DC 20202–2800.

Privacy Note: The Department's policy is to make all comments received from members of the public available for public viewing in their entirety on the Federal eRulemaking Portal at *www.regulations.gov.* Therefore, commenters should be careful to include in their comments only

information that they wish to make publicly available.

FOR FURTHER INFORMATION CONTACT: RoseAnn Ashby. Telephone: (202) 245–7258 or by email: *roseann.ashby@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:

Invitation to Comment: We invite you to submit comments regarding this priority. To ensure that your comments have maximum effect in developing the final priority, we urge you to identify clearly the specific section of the proposed priority that each comment addresses.

We invite you to assist us in complying with the specific requirements of Executive Orders 12866 and 13563 and their overall requirement of reducing regulatory burden that might result from this proposed priority. Please let us know of any further ways we could reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the program.

During and after the comment period, you may inspect all public comments about this notice in Room 5055, 550 12th Street SW., PCP, Washington, DC 20202–2800, between the hours of 8:30 a.m. and 4:00 p.m., Washington, DC time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals with Disabilities in Reviewing the Rulemaking Record: On request we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this notice. If you want to schedule an appointment for this type of accommodation or auxiliary aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Purpose of Program: The Rehabilitation Long-Term Training program provides financial assistance for—

(1) Projects that provide basic or advanced training leading to an academic degree in areas of personnel shortages in rehabilitation as identified by the Secretary;

(2) Projects that provide a specified series of courses or program of study leading to the award of a certificate in areas of personnel shortages in rehabilitation as identified by the Secretary; and

(3) Projects that provide support for medical residents enrolled in residency training programs in the specialty of physical medicine and rehabilitation.

Program Authority: 29 U.S.C. 772(b).

Applicable Program Regulations: 34 CFR parts 385 and 386.

Proposed Priority:

This notice contains one proposed priority.

Rehabilitation Specialty Areas.

Background:

The Rehabilitation Services Administration (RSA) recently redesigned its funding priority for the Rehabilitation Long-Term Training program, Vocational Rehabilitation Counseling; the final priority was published in the **Federal Register** on November 5, 2013 (78 FR 66271). The goal of this priority was to support high-quality master's level programs that would produce qualified and effective vocational rehabilitation (VR) counselors to meet the identified needs of State VR agencies and to assist individuals with disabilities in achieving high-quality employment outcomes.

In redesigning that priority, the Department was particularly concerned with increasing the rigor of training programs for prospective VR counselors to ensure that they had the knowledge and skills necessary to provide effective services to consumers in State VR agencies. In particular, the revisions were designed to ensure that (1) program curricula are developed to prepare scholars to meet the needs of State VR agency consumers; (2) programs recruit high-quality scholars and support them through the program, including through the provision of career counseling to program graduates; (3) programs maintain strong relationships with State VR agencies to promote employment and internship opportunities for scholars; and (4) programs are continuously evaluated using feedback from State VR agencies and consumers of VR services.

RSA has not yet made its first awards under the revised priority for Vocational Rehabilitation Counseling. However, we believe it has the potential to dramatically improve the caliber of programs and scholars we support and, by extension, the employment outcomes for State VR agency consumers.

Although scholars receiving support under the Vocational Rehabilitation Counseling priority are expected to develop the knowledge and skills to meet the needs of the majority of VR consumers, there will always be a need for counselors with specialized skills to meet the unique needs of individuals with specific disabilities, e.g., individuals who are blind or deaf or who have a serious mental illness. In fact, in response to a request for information (RFI) published in the **Federal Register** on November 8, 2012 (77 FR 66959), a number of commenters made exactly this case. Even in his Presidential Memorandum on Job-Driven Training for Workers, issued on January 30, 2014, the President noted that ''job seekers must have access to education and training that meets their unique needs and the requirements for good jobs and careers.''

In response to these insights, the Department plans to make new awards in several specialty areas under the Long-Term Training program in FY 2014. However, in order to ensure the same level of rigor in specialty areas as we will require from our Vocational Rehabilitation Counseling grantees, we propose a new priority for specialty areas under the Long-Term Training program.[1] Although the Department does not plan on making awards in all of these specialty areas in FY 2014, we are drafting this priority for all specialty areas to reduce the burden on the Department and commenters in future years should we opt to support projects under a different specialty area than those for which awards are made in FY 2014.

In FY 2014, the Department plans to make new awards in the following specialty areas only:

(1) Vocational Evaluation and Work Adjustment: Many who commented on the RFI and on the notice of proposed priority for Vocational Rehabilitation Counseling, published in the **Federal Register** on June 14, 2013 (78 FR 35808), strongly urged RSA to continue support for vocational evaluation programs. They stressed the critical importance of VR professionals' understanding of the individual skills needed in today's labor market and how best to align those skills with the changing demands of the labor market so that consumers with disabilities can achieve high-quality employment outcomes.

Vocational evaluators are trained to use labor market reviews, analyze job and training programs, assess work site accommodations, and conduct vocational profiles and reports. Evaluators examine the details of specific work opportunities for an

[1] Specifically, the new priority is being proposed for the following specialty areas: (1) Rehabilitation Administration; (2) Rehabilitation Technology; (3) Vocational Evaluation and Work Adjustment; (4) Rehabilitation of Individuals Who Are Mentally Ill; (5) Rehabilitation Psychology; (6) Rehabilitation of Individuals Who are Blind or have Vision Impairments; (7) Rehabilitation of Individuals Who are Deaf or Hard of Hearing; (8) Job Development and Job Placement Services; and (9) Comprehensive System of Personnel Development.

individual with a disability, including the physical, academic, social, and emotional demands of the work environment in order to maximize the potential for an individual's long-term career success.

Although VR counselors receiving a master's degree in VR counseling may possess some of these specialized skills, they do not receive the breadth and depth of training in these skill sets that an individual receiving a specialized degree or certificate in vocational evaluation does.

(2) Rehabilitation of Individuals Who Are Mentally Ill: Mental illness has a pronounced negative effect on employment. Both internal and external factors (e.g., stigma, discrimination, co-occurring conditions such as substance abuse, and medications used in treating mental health conditions) contribute to poor employment outcomes. Data from RSA's 2012 Case Service Report show that approximately 25 percent of the individuals whose case records were closed in that year had a primary disabling condition of mental illness (e.g., anxiety disorders, mood disorders, personality disorders, schizophrenia), with an additional 15 percent having a secondary co-occurring disabling condition of mental illness. Individuals with mental illness represent the largest disability group receiving public income support and they are the least likely to achieve successful employment outcomes after VR (Cook, 2006). For those individuals with mental illness who are employed, mental illness is associated with decreased productivity and job retention (Lerner, et al., 2012). State VR agency staff providing services to these consumers need specialized training in order to improve the likelihood that these consumers will achieve quality employment outcomes.

(3) Rehabilitation of Individuals Who are Blind or Have Vision Impairments: There is a great need for more highly trained rehabilitation professionals who understand the specific needs of individuals who are blind or have vision impairments. Data from RSA's Case Service Report indicate that, from 2007 to 2012, the number of case records closed after receiving services with an employment outcome for individuals with visual disabilities decreased by 17 percent. This lack of success was particularly acute in General and Combined State VR agencies, which saw a 24 percent reduction in the number of records of individuals with visual disabilities closed with an employment outcome.

We believe that increasing the number of training programs supported by the Long-Term Training program that are focused on the unique needs of individuals who are blind or have vision impairments can help to reverse this trend by ensuring that personnel have the specialized knowledge and skills to provide high-quality services to these VR consumers. Specifically, rehabilitation professionals are needed who can provide individuals with training necessary for adjustment to blindness or vision loss, including training in reading braille, orientation and mobility, independent/daily living, and use of assistive technology for both blindness and low vision-related applications (e.g., screen-reading speech software or large-print magnification devices).

(4) Rehabilitation of Individuals Who are Deaf or Hard of Hearing: There is also a need for more professionals trained in the needs of individuals who are deaf or hard of hearing. According to the ACS (2012), approximately 2.1 percent (3.9 million) of American adults between the ages of 18–64 report hearing difficulty. Hearing loss can pose significant challenges to obtaining and retaining competitive employment, and individuals with these disabling conditions often need additional, specialized supports to be successful in the workforce.

Rehabilitation professionals working with this population should have the following competencies: (1) knowledge of the medical, psychological, and social impact of hearing loss; (2) knowledge of VR counseling and assessment strategies appropriate for this population; (3) knowledge of sign language, communication strategies, hearing aids, cochlear implants, hearing rehabilitation, and assistive technologies (e.g., assistive listening devices, speech-to-text software and devices, telephone technologies, etc.); and (4) knowledge of education, career, and employment opportunities.

References:

Cook, J. (2006). Employment Barriers for Persons with Psychiatric Disabilities: Update of a Report for the President's Commission. Psychiatric Services, 57(10), 1391–1405. Retrieved from *http://ps.psychiatryonline.org/data/Journals/PSS/3777/06ps1391.pdf.*

Lerner, D., Adler, D., Hermann, R. C., Chang, H., Ludman, E. J., Greenhill, A., Perch, K., McPeck, W. C., & Rogers, W. H. (2012). Impact of a Work-Focused Intervention on the Productivity and Symptoms of Employees with Depression. Journal of Occupational and Environmental Medicine, 54(2), 128.

Obama, B.H. Presidential Memorandum on Job-Driven Training for Workers. The White House, Office of the Press Secretary. 30 Jan. 2014. Web. 8 April 2014.

Rehabilitation Services Administration. (2012). Case Service Report. RSA 911.

United States Census Bureau. (2012). S1819 Disability Characteristics, 2008–2012 American Community Survey (ACS) 5-year Estimates. American Fact Finder. 2012. Web. Feb. 2014.

Proposed Priority:

The Assistant Secretary for Special Education and Rehabilitative Services proposes a priority to fund programs leading to a master's degree or certificate in one of nine specialty areas: (1) Rehabilitation Administration; (2) Rehabilitation Technology; (3) Vocational Evaluation and Work Adjustment; (4) Rehabilitation of Individuals Who Are Mentally Ill; (5) Rehabilitation Psychology; (6) Specialized Personnel for Rehabilitation of Individuals Who Are Blind or Have Vision Impairments; (7) Rehabilitation of Individuals Who Are Deaf or Hard of Hearing; (8) Job Development and Job Placement Services; and (9) Comprehensive System of Personnel Development. The goal of this priority is to increase the skills of scholars in these rehabilitation specialty areas so that, upon successful completion of their master's degree or certificate programs, they are prepared to effectively meet the needs and demands of consumers with disabilities.

Under this priority, applicants must:

(a) Provide data on the current and projected employment needs and personnel shortages in the specialty area in State VR agencies and other related agencies as defined in 34 CFR 386.4 in their local area, region, and State, and describe how the proposed program will address those employment needs and personnel shortages.

(b) Describe how the proposed program will provide rehabilitation professionals with the skills and knowledge that will help ensure that the individuals with disabilities whom they serve can meet current demands and emerging trends in the labor market, including how:

(1) The curriculum provides a breadth of knowledge, experience, and rigor that will adequately prepare scholars to meet the employment needs and goals of VR consumers and aligns with evidence-based and competency-based practices in the rehabilitation specialty area;

(2) The curriculum prepares scholars to meet all applicable certification standards;

(3) The curriculum addresses new or emerging consumer needs or trends at the national, State, and regional levels in the rehabilitation specialty area;

(4) The curriculum teaches scholars to address the needs of individuals with

disabilities who are from diverse cultural backgrounds;

(5) The curriculum trains scholars to assess the assistive technology needs of consumers, identify the most appropriate assistive technology services and devices for assisting consumers to obtain and retain employment, and train consumers to use such technology;

(6) The curriculum teaches scholars to work with employers effectively in today's economy, including by teaching strategies for developing relationships with employers in their State and local areas, identifying employer needs and skill demands, making initial employer contacts, presenting job-ready clients to potential employers, and conducting follow-up with employers; and

(7) The latest technology is incorporated into the methods of instruction (e.g., the use of distance education to reach scholars who live far from the university and the use of technology to acquire labor market information).

(c) Describe their methods to:

(1) Recruit highly capable prospective scholars who have the potential to successfully complete the academic program, all required practicum and internship experiences, and the required service obligation;

(2) Educate potential scholars about the terms and conditions of the service obligation under 34 CFR 386.4, 386.34, and 386.40 through 386.43 so that they will be fully informed before accepting a scholarship;

(3) Maintain a system that ensures that scholars sign a payback agreement and an exit form when they exit the program, regardless of whether they drop out, are removed, or successfully complete the program;

(4) Provide academic support and counseling to scholars throughout the course of the academic program to ensure successful completion;

(5) Ensure that all scholars complete an internship in a State VR agency or a related agency as a requirement for completion of a program leading to a master's degree. The internship must be in a State VR agency unless the VR agency does not directly perform work related to the scholar's course of study or an applicant can provide sufficient justification that it is not feasible for all students receiving scholarships to complete an internship in a State VR agency. In such cases, the applicant may require scholars to complete an internship in a related agency, as defined in 34 CFR 386.4. Circumstances that would constitute sufficient justification may include, but are not limited to, a lack of capacity at the State VR agency to provide adequate supervision of scholars during their internship experience and the physical distance between scholars and the nearest office of the State VR agency (e.g., for scholars enrolled in distance-learning programs or at rural institutions). Applicants should include a written justification in the application or provide it to RSA for review and approval by the appropriate RSA Project Officer no later than 30 days prior to a scholar beginning an internship in a related agency. For applicants proposing a certificate program, the requirement for an internship in a State VR agency or a related agency is waived unless the certificate program has an internship requirement.

(6) Provide career counseling, including informing scholars of professional contacts and networks, job leads, and other necessary resources and information to support scholars in successfully obtaining and retaining qualifying employment;

(7) Maintain regular contact with scholars upon successful program completion to ensure that they have support during their search for qualifying employment as well as support during the initial months of their employment (e.g., by matching scholars with mentors in the field);

(8) Maintain regular communication with scholars after program exit to ensure that their contact information is current and that documentation of employment is accurate and meets the regulatory requirements for qualifying employment; and

(9) Maintain accurate information on, while safeguarding the privacy of, current and former scholars from the time they are enrolled in the program until they successfully meet their service obligation.

(d) Describe a plan for developing and maintaining partnerships with State VR agencies and community-based rehabilitation service providers that includes:

(1) Coordination between the grantee and the State VR agencies and community-based rehabilitation service providers that will promote qualifying employment opportunities for scholars and formalized on-boarding and induction experiences for new hires;

(2) Formal opportunities for scholars to obtain work experiences through internships, practicum agreements, job shadowing, and mentoring opportunities; and

(3) When applicable, a scholar internship assessment tool that is developed to ensure a consistent approach to the evaluation of scholars in a particular program. The tool should reflect the specific responsibilities of the scholar during the internship. The grantee and worksite supervisor are encouraged to work together as they see fit to develop the assessment tool. Supervisors at the internship site will complete the assessment detailing the scholar's strengths and areas for improvement that must be addressed and provide the results of the assessment to the grantee. The grantee should ensure that (i) scholars are provided with a copy of the assessment and all relevant rubrics prior to beginning their internship, (ii) supervisors have sufficient technical support to accurately complete the assessment, and (iii) scholars receive a copy of the results of the assessment within 90 days of the end of their internship.

(e) Describe how scholars will be evaluated throughout the entire program to ensure that they are proficient in meeting the needs and demands of today's consumers and employers, including the steps that will be taken to provide assistance to a scholar who is not meeting academic standards or who is performing poorly in a practicum or internship setting.

(f) Describe how the program will be evaluated. Such a description must include:

(1) How the program will determine its effect over a period of time on filling vacancies in the State VR agency with qualified rehabilitation professionals capable of providing quality services to consumers;

(2) How input from State VR agencies and community-based rehabilitation service providers will be included in the evaluation;

(3) How feedback from consumers of VR services and employers (including the assessments described in paragraph (d)(3)) will be included in the evaluation;

(4) How data from other sources, such as those from the Department on the State VR program, will be included in the evaluation; and

(5) How the data and results from the evaluation will be used to make necessary adjustments and improvements to the program.

Types of Priorities:

When inviting applications for a competition using one or more priorities, we designate the type of each priority as absolute, competitive preference, or invitational through a notice in the **Federal Register**. The effect of each type of priority follows:

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority, we are particularly interested in applications that meet the priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

Final Priority:

We will announce the final priority in a notice in the **Federal Register**. We will determine the final priority after considering responses to this notice and other information available to the Department. This notice does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria, subject to meeting applicable rulemaking requirements.

Note: This notice does *not* solicit applications. In any year in which we choose to use this priority, we invite applications through a notice in the **Federal Register**.

Executive Orders 12866 and 13563

Regulatory Impact Analysis

Under Executive Order 12866, the Secretary must determine whether this regulatory action is ''significant'' and, therefore, subject to the requirements of the Executive order and subject to review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action likely to result in a rule that may—

(1) Have an annual effect on the economy of $100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities in a material way (also referred to as an ''economically significant'' rule);

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles stated in the Executive order.

This proposed regulatory action is not a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866.

We have also reviewed this proposed regulatory action under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency—

(1) Propose or adopt regulations only on a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account—among other things and to the extent practicable—the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that would maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency ''to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible.'' The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include ''identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes.''

We are issuing this proposed priority only on a reasoned determination that its benefits would justify its costs. In choosing among alternative regulatory approaches, we selected those approaches that maximize net benefits. Based on the analysis that follows, the Department believes that this regulatory action is consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action would not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

In accordance with both Executive orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs are those resulting from statutory requirements and those we have determined as necessary for administering the Department's programs and activities.

The benefits of the Rehabilitation Long-Term Training program have been well established over the years through the successful completion of similar projects. This proposed priority would promote rehabilitation programs that will better prepare scholars to assist individuals with disabilities achieve employment in today's challenging economy.

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 early notification of our specific plans and actions for this program.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

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

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

Dated: May 7, 2014.

Michael K. Yudin,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 2014–10958 Filed 5–12–14; 8:45 am]

BILLING CODE 4000–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2011–0888; FRL–9910–74–Region 5]

Approval and Promulgation of Air Quality Implementation Plans; Illinois, Michigan, Minnesota, Wisconsin; Infrastructure SIP Requirements for the 2008 Lead NAAQS

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve elements of state implementation plan (SIP) submissions from Michigan and Wisconsin while proposing to approve some elements and disapprove other elements of SIP submissions from Illinois and Minnesota regarding the infrastructure requirements of section 110 of the Clean Air Act (CAA) for the 2008 lead National Ambient Air Quality Standards (2008 Pb NAAQS). The infrastructure requirements are designed to ensure that the structural components of each state's air quality management program are adequate to meet the state's responsibilities under the CAA. Illinois and Minnesota already administer federally promulgated regulations that address the proposed disapprovals described in today's rulemaking and as a result, there is no practical effect for either of these states.

DATES: Comments must be received on or before June 12, 2014.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2011–0888 by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *Email: aburano.douglas@epa.gov.*
3. *Fax:* (312) 408–2279.
4. *Mail:* Douglas Aburano, Chief, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
5. *Hand Delivery:* Douglas Aburano, Chief, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

Instructions: Direct your comments to Docket ID. EPA–R05–OAR–2011–0888. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Andy Chang, Environmental Engineer, at (312) 886–0258 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Andy Chang, Environmental Engineer, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–0258, *chang.andy@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This supplementary information section is arranged as follows:

I. What should I consider as I prepare my comments for EPA?
II. What is the background of these SIP submissions?
A. What state SIP submissions does this rulemaking address?
B. Why did the states make these SIP submissions?
C. What is the scope of this rulemaking?
III. What guidance is EPA using to evaluate these SIP submissions?
IV. What is the result of EPA's review of these SIP submissions?
A. Section 110(a)(2)(A)—Emission Limits and Other Control Measures
B. Section 110(a)(2)(B)—Ambient Air Quality Monitoring/Data System
C. Section 110(a)(2)(C)—Program for Enforcement of Control Measures; PSD
D. Section 110(a)(2)(D)—Interstate Transport
E. Section 110(a)(2)(E)—Adequate Resources
F. Section 110(a)(2)(F)—Stationary Source Monitoring System
G. Section 110(a)(2)(G)—Emergency Powers
H. Section 110(a)(2)(H)—Future SIP Revisions
I. Section 110(a)(2)(I)—Nonattainment Area Plan or Plan Revisions Under Part D
J. Section 110(a)(2)(J)—Consultation With Government Officials; Public Notifications; PSD; Visibility Protection
K. Section 110(a)(2)(K)—Air Quality Modeling/Data
L. Section 110(a)(2)(L)—Permitting Fees
M. Section 110(a)(2)(M)—Consultation/Participation by Affected Local Entities
V. What action is EPA taking?
VI. Statutory and Executive Order Reviews

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

When submitting comments, remember to:

1. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date, and page number).
2. Follow directions—EPA may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
3. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
4. Describe any assumptions and provide any technical information and/or data that you used.
5. If you estimate potential costs or burdens, explain how you arrived at

your estimate in sufficient detail to allow for it to be reproduced.

6. Provide specific examples to illustrate your concerns, and suggest alternatives.

7. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

8. Make sure to submit your comments by the comment period deadline identified.

II. What is the background of these SIP submissions?

A. What state SIP submissions does this rulemaking address?

This rulemaking addresses submissions from the following states in EPA Region 5: Illinois Environmental Protection Agency (Illinois EPA); Michigan Department of Environmental Quality (MDEQ); Minnesota Pollution Control Agency (MPCA); and Wisconsin Department of Natural Resources (WDNR). The states submitted their 2008 Pb NAAQS infrastructure SIPs on the following dates: Illinois—December 31, 2012; Michigan—April 3, 2012, and supplemented on August 9, 2013, and September 19, 2013; Minnesota—June 19, 2012; and, Wisconsin—July 26, 2012.

B. Why did the states make these SIP submissions?

Under sections 110(a)(1) and (2) of the CAA, states are required to submit infrastructure SIPs to ensure that their SIPs provide for implementation, maintenance, and enforcement of the NAAQS, including the 2008 Pb NAAQS. These submissions must contain any revisions needed for meeting the applicable SIP requirements of section 110(a)(2), or certifications that their existing SIPs for Pb and ozone already meet those requirements.

EPA highlighted this statutory requirement in an October 2, 2007, guidance document entitled ''Guidance on SIP Elements Required Under Sections 110(a)(1) and (2) for the 1997 8-hour Ozone and $PM_{2.5}$ National Ambient Air Quality Standards'' (2007 Memo). On September 25, 2009, EPA issued an additional guidance document pertaining to the 2006 $PM_{2.5}$ [1] NAAQS entitled ''Guidance on SIP Elements Required Under Sections 110(a)(1) and (2) for the 2006 24-Hour Fine Particle ($PM_{2.5}$) National Ambient Air Quality Standards (NAAQS)'' (2009 Memo), followed by the October 14, 2011, ''Guidance on infrastructure SIP Elements Required Under Sections 110(a)(1) and (2) for the 2008 Lead (Pb) National Ambient Air Quality Standards (NAAQS)'' (2011 Memo). Most recently, EPA issued ''Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and (2)'' on September 13, 2013 (2013 Memo). The SIP submissions referenced in this rulemaking pertain to the applicable requirements of section 110(a)(1) and (2), and primarily address the 2008 Pb NAAQS. To the extent that the prevention of significant deterioration (PSD) program is comprehensive and non-NAAQS specific, a narrow evaluation of other NAAQS, such as the 1997 8-hour ozone and 2006 $PM_{2.5}$ NAAQS will be included in the appropriate sections.

C. What is the scope of this rulemaking?

EPA is acting upon the SIP submissions from Illinois, Michigan, Minnesota, and Wisconsin that addresses the infrastructure requirements of CAA sections 110(a)(1) and 110(a)(2) for the 2008 Pb NAAQS. The requirement for states to make a SIP submission of this type arises out of CAA section 110(a)(1). Pursuant to section 110(a)(1), states must make SIP submissions ''within 3 years (or such shorter period as the Administrator may prescribe) after the promulgation of a national primary ambient air quality standard (or any revision thereof),'' and these SIP submissions are to provide for the ''implementation, maintenance, and enforcement'' of such NAAQS. The statute directly imposes on states the duty to make these SIP submissions, and the requirement to make the submissions is not conditioned upon EPA's taking any action other than promulgating a new or revised NAAQS. Section 110(a)(2) includes a list of specific elements that ''[e]ach such plan'' submission must address.

EPA has historically referred to these SIP submissions made for the purpose of satisfying the requirements of CAA sections 110(a)(1) and 110(a)(2) as ''infrastructure SIP'' submissions. Although the term ''infrastructure SIP'' does not appear in the CAA, EPA uses the term to distinguish this particular type of SIP submission from submissions that are intended to satisfy other SIP requirements under the CAA, such as ''nonattainment SIP'' or ''attainment plan SIP'' submissions to address the nonattainment planning requirements of part D of title I of the CAA, ''regional haze SIP'' submissions required by EPA rule to address the visibility protection requirements of CAA section 169A, and nonattainment new source review (NNSR) permit program submissions to address the permit requirements of CAA, title I, part D.

Section 110(a)(1) addresses the timing and general requirements for infrastructure SIP submissions, and section 110(a)(2) provides more details concerning the required contents of these submissions. The list of required elements provided in section 110(a)(2) contains a wide variety of disparate provisions, some of which pertain to required legal authority, some of which pertain to required substantive program provisions, and some of which pertain to requirements for both authority and substantive program provisions.[2] EPA therefore believes that while the timing requirement in section 110(a)(1) is unambiguous, some of the other statutory provisions are ambiguous. In particular, EPA believes that the list of required elements for infrastructure SIP submissions provided in section 110(a)(2) contains ambiguities concerning what is required for inclusion in an infrastructure SIP submission.

The following examples of ambiguities illustrate the need for EPA to interpret some section 110(a)(1) and section 110(a)(2) requirements with respect to infrastructure SIP submissions for a given new or revised NAAQS. One example of ambiguity is that section 110(a)(2) requires that ''each'' SIP submission must meet the list of requirements therein, while EPA has long noted that this literal reading of the statute is internally inconsistent and would create a conflict with the nonattainment provisions in part D of title I of the CAA, which specifically address nonattainment SIP requirements.[3] Section 110(a)(2)(I) pertains to nonattainment SIP requirements and part D addresses when attainment plan SIP submissions to address nonattainment area requirements are due. For example, section 172(b) requires EPA to establish a schedule for submission of such plans for certain pollutants when the Administrator promulgates the designation of an area as nonattainment,

[1] $PM_{2.5}$ refers to particulate matter of 2.5 microns or less in diameter, oftentimes referred to as ''fine'' particles.

[2] For example: Section 110(a)(2)(E)(i) provides that states must provide assurances that they have adequate legal authority under state and local law to carry out the SIP; section 110(a)(2)(C) provides that states must have a SIP-approved program to address certain sources as required by part C of title I of the CAA; and section 110(a)(2)(G) provides that states must have legal authority to address emergencies as well as contingency plans that are triggered in the event of such emergencies.

[3] See, e.g., ''Rule To Reduce Interstate Transport of Fine Particulate Matter and Ozone (Clean Air Interstate Rule); Revisions to Acid Rain Program; Revisions to the NO_X SIP Call; Final Rule,'' 70 FR 25162, at 25163–65 (May 12, 2005) (explaining relationship between timing requirement of section 110(a)(2)(D) versus section 110(a)(2)(I)).

and section 107(d)(1)(B) allows up to two years, or in some cases three years, for such designations to be promulgated.[4] This ambiguity illustrates that rather than apply all the stated requirements of section 110(a)(2) in a strict literal sense, EPA must determine which provisions of section 110(a)(2) are applicable for a particular infrastructure SIP submission.

Another example of ambiguity within sections 110(a)(1) and 110(a)(2) with respect to infrastructure SIPs pertains to whether states must meet all of the infrastructure SIP requirements in a single SIP submission, and whether EPA must act upon such SIP submission in a single action. Although section 110(a)(1) directs states to submit ''a plan'' to meet these requirements, EPA interprets the CAA to allow states to make multiple SIP submissions separately addressing infrastructure SIP elements for the same NAAQS. If states elect to make such multiple SIP submissions to meet the infrastructure SIP requirements, EPA can elect to act on such submissions either individually or in a larger combined action.[5] Similarly, EPA interprets the CAA to allow it to take action on the individual parts of one larger, comprehensive infrastructure SIP submission for a given NAAQS without concurrent action on the entire submission. For example, EPA has sometimes elected to act at different times on various elements and sub-elements of the same infrastructure SIP submission.[6]

Ambiguities within sections 110(a)(1) and 110(a)(2) may also arise with respect to infrastructure SIP submission requirements for different NAAQS. Thus, EPA notes that not every element of section 110(a)(2) would be relevant, or as relevant, or relevant in the same way, for each new or revised NAAQS. The states' attendant infrastructure SIP submissions for each NAAQS therefore could be different. For example, the monitoring requirements that a state might need to meet in its infrastructure SIP submission for purposes of section 110(a)(2)(B) could be very different for different pollutants, for example because the content and scope of a state's infrastructure SIP submission to meet this element might be very different for an entirely new NAAQS than for a minor revision to an existing NAAQS.[7]

EPA notes that interpretation of section 110(a)(2) is also necessary when EPA reviews other types of SIP submissions required under the CAA. Therefore, as with infrastructure SIP submissions, EPA also has to identify and interpret the relevant elements of section 110(a)(2) that logically apply to these other types of SIP submissions. For example, section 172(c)(7) requires that attainment plan SIP submissions required by part D have to meet the ''applicable requirements'' of section 110(a)(2). Thus, for example, attainment plan SIP submissions must meet the requirements of section 110(a)(2)(A) regarding enforceable emission limits and control measures and section 110(a)(2)(E)(i) regarding air agency resources and authority. By contrast, it is clear that attainment plan SIP submissions required by part D would not need to meet the portion of section 110(a)(2)(C) that pertains to the PSD program required in part C of title I of the CAA, because PSD does not apply to a pollutant for which an area is designated nonattainment and thus subject to part D planning requirements. As this example illustrates, each type of SIP submission may implicate some elements of section 110(a)(2) but not others.

Given the potential for ambiguity in some of the statutory language of section 110(a)(1) and section 110(a)(2), EPA believes that it is appropriate to interpret the ambiguous portions of section 110(a)(1) and section 110(a)(2) in the context of acting on a particular SIP submission. In other words, EPA assumes that Congress could not have intended that each and every SIP submission, regardless of the NAAQS in question or the history of SIP development for the relevant pollutant, would meet each of the requirements, or meet each of them in the same way. Therefore, EPA has adopted an approach under which it reviews infrastructure SIP submissions against the list of elements in section 110(a)(2), but only to the extent each element applies for that particular NAAQS.

Historically, EPA has elected to use guidance documents to make recommendations to states for infrastructure SIPs, in some cases conveying needed interpretations on newly arising issues and in some cases conveying interpretations that have already been developed and applied to individual SIP submissions for particular elements.[8] EPA's 2013 Memo was developed to provide states with up-to-date guidance for infrastructure SIPs for any new or revised NAAQS. Within this guidance, EPA describes the duty of states to make infrastructure SIP submissions to meet basic structural SIP requirements within three years of promulgation of a new or revised NAAQS. EPA also made recommendations about many specific subsections of section 110(a)(2) that are relevant in the context of infrastructure SIP submissions.[9] The guidance also discusses the substantively important issues that are germane to certain subsections of section 110(a)(2). Significantly, EPA interprets sections 110(a)(1) and 110(a)(2) such that infrastructure SIP submissions need to address certain issues and need not address others. Accordingly, EPA reviews each infrastructure SIP submission for compliance with the

[4] EPA notes that this ambiguity within section 110(a)(2) is heightened by the fact that various subparts of part D set specific dates for submission of certain types of SIP submissions in designated nonattainment areas for various pollutants. Note, e.g., that section 182(a)(1) provides specific dates for submission of emissions inventories for the ozone NAAQS. Some of these specific dates are necessarily later than three years after promulgation of the new or revised NAAQS.

[5] See, e.g., ''Approval and Promulgation of Implementation Plans; New Mexico; Revisions to the New Source Review (NSR) State Implementation Plan (SIP); Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NNSR) Permitting,'' 78 FR 4339 (January 22, 2013) (EPA's final action approving the structural PSD elements of the New Mexico SIP submitted by the State separately to meet the requirements of EPA's 2008 $PM_{2.5}$ NSR rule), and ''Approval and Promulgation of Air Quality Implementation Plans; New Mexico; Infrastructure and Interstate Transport Requirements for the 2006 $PM_{2.5}$ NAAQS,'' (78 FR 4337) (January 22, 2013) (EPA's final action on the infrastructure SIP for the 2006 $PM_{2.5}$ NAAQS).

[6] On December 14, 2007, the State of Tennessee, through the Tennessee Department of Environment and Conservation, made a SIP revision to EPA demonstrating that the State meets the requirements of sections 110(a)(1) and (2). EPA proposed action for infrastructure SIP elements (C) and (J) on January 23, 2012 (77 FR 3213) and took final action on March 14, 2012 (77 FR 14976). On April 16, 2012 (77 FR 22533) and July 23, 2012 (77 FR 42997), EPA took separate proposed and final actions on all other section 110(a)(2) infrastructure SIP elements of Tennessee's December 14, 2007 submittal.

[7] For example, implementation of the 1997 $PM_{2.5}$ NAAQS required the deployment of a system of new monitors to measure ambient levels of that new indicator species for the new NAAQS.

[8] EPA notes, however, that nothing in the CAA requires EPA to provide guidance or to promulgate regulations for infrastructure SIP submissions. The CAA directly applies to states and requires the submission of infrastructure SIP submissions, regardless of whether or not EPA provides guidance or regulations pertaining to such submissions. EPA elects to issue such guidance in order to assist states, as appropriate.

[9] EPA's September 13, 2013, guidance did not make recommendations with respect to infrastructure SIP submissions to address section 110(a)(2)(D)(i)(I). EPA issued the guidance shortly after the U.S. Supreme Court agreed to review the D.C. Circuit decision in *EME Homer City*, 696 F.3d7 (D.C. Cir. 2012) which had interpreted the requirements of section 110(a)(2)(D)(i)(I). In light of the uncertainty created by ongoing litigation, EPA elected not to provide additional guidance on the requirements of section 110(a)(2)(D)(i)(I) at that time. As the guidance is neither binding nor required by statute, whether EPA elects to provide guidance on a particular section has no impact on a state's CAA obligations.

applicable statutory provisions of section 110(a)(2), as appropriate.

As an example, section 110(a)(2)(E)(ii) is a required element of section 110(a)(2) for infrastructure SIP submissions. Under this element, a state must meet the substantive requirements of section 128, which pertain to state boards that approve permits or enforcement orders and heads of executive agencies with similar powers. Thus, EPA reviews infrastructure SIP submissions to ensure that the state's SIP appropriately addresses the requirements of section 110(a)(2)(E)(ii) and section 128. The 2013 Memo explains EPA's interpretation that there may be a variety of ways by which states can appropriately address these substantive statutory requirements, depending on the structure of an individual state's permitting or enforcement program (*e.g.,* whether permits and enforcement orders are approved by a multi-member board or by a head of an executive agency). However they are addressed by the state, the substantive requirements of section 128 are necessarily included in EPA's evaluation of infrastructure SIP submissions because section 110(a)(2)(E)(ii) explicitly requires that the state satisfy the provisions of section 128.

As another example, EPA's review of infrastructure SIP submissions with respect to the PSD program requirements in sections 110(a)(2)(C), (D)(i)(II), and (J) focuses upon the structural PSD program requirements contained in part C and EPA's PSD regulations. Structural PSD program requirements include provisions necessary for the PSD program to address all regulated sources and NSR pollutants, including greenhouse gases (GHGs). By contrast, structural PSD program requirements do not include provisions that are not required under EPA's regulations at 40 CFR 51.166 but are merely available as an option for the state, such as the option to provide grandfathering of complete permit applications with respect to the 2012 $PM_{2.5}$ NAAQS. Accordingly, the latter optional provisions are types of provisions EPA considers irrelevant in the context of an infrastructure SIP action.

For other section 110(a)(2) elements, however, EPA's review of a state's infrastructure SIP submission focuses on assuring that the state's SIP meets basic structural requirements. For example, section 110(a)(2)(C) includes, *inter alia,* the requirement that states have a program to regulate minor new sources. Thus, EPA evaluates whether the state has an EPA-approved minor new source review (NSR) program and whether the program addresses the pollutants relevant to that NAAQS. In the context of acting on an infrastructure SIP submission, however, EPA does not think it is necessary to conduct a review of each and every provision of a state's existing minor source program (*i.e.,* already in the existing SIP) for compliance with the requirements of the CAA and EPA's regulations that pertain to such programs.

With respect to certain other issues, EPA does not believe that an action on a state's infrastructure SIP submission is necessarily the appropriate type of action in which to address possible deficiencies in a state's existing SIP. These issues include: (i) Existing provisions related to excess emissions from sources during periods of startup, shutdown, or malfunction that may be contrary to the CAA and EPA's policies addressing such excess emissions (''SSM''); (ii) existing provisions related to ''director's variance'' or ''director's discretion'' that may be contrary to the CAA because they purport to allow revisions to SIP-approved emissions limits while limiting public process or not requiring further approval by EPA; and (iii) existing provisions for PSD programs that may be inconsistent with current requirements of EPA's ''Final NSR Improvement Rule,'' 67 FR 80186 (December 31, 2002), as amended by 72 FR 32526 (June 13, 2007) (''NSR Reform''). Thus, EPA believes it may approve an infrastructure SIP submission without scrutinizing the totality of the existing SIP for such potentially deficient provisions and may approve the submission even if it is aware of such existing provisions.[10] It is important to note that EPA's approval of a state's infrastructure SIP submission should not be construed as explicit or implicit re-approval of any existing potentially deficient provisions that relate to the three specific issues just described.

EPA's approach to review of infrastructure SIP submissions is to identify the CAA requirements that are logically applicable to that submission. EPA believes that this approach to the review of a particular infrastructure SIP submission is appropriate, because it would not be reasonable to read the general requirements of section 110(a)(1) and the list of elements in 110(a)(2) as requiring review of each and every provision of a state's existing SIP against all requirements in the CAA and EPA regulations merely for purposes of assuring that the state in question has the basic structural elements for a functioning SIP for a new or revised NAAQS. Because SIPs have grown by accretion over the decades as statutory and regulatory requirements under the CAA have evolved, they may include some outmoded provisions and historical artifacts. These provisions, while not fully up to date, nevertheless may not pose a significant problem for the purposes of ''implementation, maintenance, and enforcement'' of a new or revised NAAQS when EPA evaluates adequacy of the infrastructure SIP submission. EPA believes that a better approach is for states and EPA to focus attention on those elements of section 110(a)(2) of the CAA most likely to warrant a specific SIP revision due to the promulgation of a new or revised NAAQS or other factors.

For example, the 2013 Memo gives simpler recommendations with respect to carbon monoxide than other NAAQS pollutants to meet the visibility requirements of section 110(a)(2)(D)(i)(II), because carbon monoxide does not affect visibility. As a result, an infrastructure SIP submission for any future new or revised NAAQS for carbon monoxide need only state this fact in order to address the visibility prong of section 110(a)(2)(D)(i)(II).

Finally, EPA believes that its approach with respect to infrastructure SIP requirements is based on a reasonable reading of sections 110(a)(1) and 110(a)(2) because the CAA provides other avenues and mechanisms to address specific substantive deficiencies in existing SIPs. These other statutory tools allow EPA to take appropriately tailored action, depending upon the nature and severity of the alleged SIP deficiency. Section 110(k)(5) authorizes EPA to issue a ''SIP call'' whenever the Agency determines that a state's SIP is substantially inadequate to attain or maintain the NAAQS, to mitigate interstate transport, or to otherwise comply with the CAA.[11] Section 110(k)(6) authorizes EPA to correct errors in past actions, such as past

[10] By contrast, EPA notes that if a state were to include a new provision in an infrastructure SIP submission that contained a legal deficiency, such as a new exemption for excess emissions during SSM events, then EPA would need to evaluate that provision for compliance against the rubric of applicable CAA requirements in the context of the action on the infrastructure SIP.

[11] For example, EPA issued a SIP call to Utah to address specific existing SIP deficiencies related to the treatment of excess emissions during SSM events. See ''Finding of Substantial Inadequacy of Implementation Plan; Call for Utah State Implementation Plan Revisions,'' 74 FR 21639 (April 18, 2011).

approvals of SIP submissions.[12] Significantly, EPA's determination that an action on a state's infrastructure SIP submission is not the appropriate time and place to address all potential existing SIP deficiencies does not preclude EPA's subsequent reliance on provisions in section 110(a)(2) as part of the basis for action to correct those deficiencies at a later time. For example, although it may not be appropriate to require a state to eliminate all existing inappropriate director's discretion provisions in the course of acting on an infrastructure SIP submission, EPA believes that section 110(a)(2)(A) may be among the statutory bases that EPA relies upon in the course of addressing such deficiency in a subsequent action.[13]

III. What guidance is EPA using to evaluate these SIP submissions?

EPA's guidance for these infrastructure SIP submissions is embodied in the 2007 Memo. Specifically, attachment A of this memorandum (Required Section 110 SIP Elements) identifies the statutory elements that states need to submit in order to satisfy the requirements for an infrastructure SIP submission. The 2009 Memo was issued to provide additional guidance for certain elements to meet the requirements of section 110(a)(1) and (2) of the CAA, and the 2011 Memo provides guidance specific to the 2008 Pb NAAQS. Lastly, the 2013 Memo identifies and further clarifies aspects of infrastructure SIPs that are not NAAQS specific.

IV. What is the result of EPA's review of these SIP submissions?

As noted in the 2011 Memo and reiterated in the 2013 Memo, pursuant to section 110(a), states must provide reasonable notice and opportunity for public hearing for all infrastructure SIP submissions. Each state referenced in this rulemaking provided the opportunity for public comment that ended on the following dates: Illinois—October 24, 2012; Michigan—February 29, 2012; Minnesota—May 25, 2012; and, Wisconsin—June 18, 2012. Each state also provided an opportunity for a public hearing. None of the states referenced in this rulemaking received any written comments, nor were public hearings requested by interested parties. EPA is also soliciting comment on our evaluation of each state's infrastructure SIP submission in this notice of proposed rulemaking. Illinois, Michigan, Minnesota, and Wisconsin provided detailed synopses of how various components of their SIPs meet each of the requirements in section 110(a)(2) for the 2008 Pb NAAQS, as applicable. The following review evaluates the states' submissions.

A. Section 110(a)(2)(A)—Emission Limits and Other Control Measures

This section requires SIPs to include enforceable emission limits and other control measures, means or techniques, schedules for compliance, and other related matters. However, EPA has long interpreted emission limits and control measures for attaining the standards as being due when nonattainment planning requirements are due.[14] In the context of an infrastructure SIP, EPA is not evaluating the existing SIP provisions for this purpose. Instead, EPA is only evaluating whether the state's SIP has basic structural provisions for the implementation of the NAAQS.

The Illinois Environmental Protection Act is contained in chapter 415, section 5, of the Illinois Compiled Statutes (415 ILCS 5). 415 ILCS 5/4 provides Illinois EPA with the authority to develop rules and regulations necessary to meet ambient air quality standards. Additionally, the Illinois Pollution Control Board (IPCB) was created under 415 ILCS 5, providing the IPCB with the authority to develop rules and regulations necessary to promote the purposes of the Illinois Environmental Protection Act. Furthermore, the IPCB ensures compliance with required laws and other elements of the State's attainment plan that are necessary to attain the NAAQS, and to comply with the requirements of the CAA. (415 ILCS 5/10) EPA proposes that Illinois has met the infrastructure SIP requirements of section 110(a)(2)(A) with respect to the 2008 Pb NAAQS.

The Michigan Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (Act 451), sections 324.5503 and 324.5512, provide the Director of MDEQ with the authority to regulate the discharge of air pollutants, and to promulgate rules to establish standards for emissions for ambient air quality and for emissions. EPA proposes that Michigan has met the infrastructure SIP requirements of section 110(a)(2)(A) with respect to the 2008 Pb NAAQS.

Minnesota Statute chapter 116.07 gives MPCA the authority to ''[a]dopt, amend, and rescind rules and standards having the force of law relating to any purpose . . . for the prevention, abatement, or control of air pollution.'' EPA proposes that Minnesota has met the infrastructure SIP requirements of section 110(a)(2)(A) with respect to the 2008 Pb NAAQS.

Wisconsin Statutes (WS) chapter 285.11 through WS chapter 285.19 establish general authority for monitoring, updating, and implementing necessary revisions to the Wisconsin SIP. Additional authorities for WDNR related to specific pollutants are contained in WS chapter 285.21 through WS chapter 285.29. EPA proposes that Wisconsin has met the infrastructure SIP requirements of section 110(a)(2)(A) with respect to the 2008 Pb NAAQS.

As previously noted, EPA is not proposing to approve or disapprove any existing state provisions or rules related to SSM or director's discretion in the context of section 110(a)(2)(A).

B. Section 110(a)(2)(B)—Ambient Air Quality Monitoring/Data System

This section requires SIPs to include provisions to provide for establishing and operating ambient air quality monitors, collecting and analyzing ambient air quality data, and making these data available to EPA upon request. This review of the annual monitoring plan includes EPA's determination that the state: (i) Monitors air quality at appropriate locations throughout the state using EPA-approved Federal Reference Methods or Federal Equivalent Method monitors; (ii) submits data to EPA's Air Quality System (AQS) in a timely manner; and, (iii) provides EPA Regional Offices with prior notification of any planned changes to monitoring sites or the network plan.

Illinois EPA continues to operate an extensive monitoring network incorporating more than 200 monitors throughout the state. Illinois EPA also publishes an annual report that

[12] EPA has used this authority to correct errors in past actions on SIP submissions related to PSD programs. See ''Limitation of Approval of Prevention of Significant Deterioration Provisions Concerning Greenhouse Gas Emitting-Sources in State Implementation Plans; Final Rule,'' 75 FR 82536 (December 30, 2010). EPA has previously used its authority under CAA section 110(k)(6) to remove numerous other SIP provisions that the Agency determined it had approved in error. See, e.g., 61 FR 38664 (July 25, 1996) and 62 FR 34641 (June 27, 1997) (corrections to American Samoa, Arizona, California, Hawaii, and Nevada SIPs); 69 FR 67062 (November 16, 2004) (corrections to California SIP); and 74 FR 57051 (November 3, 2009) (corrections to Arizona and Nevada SIPs).

[13] See, e.g., EPA's disapproval of a SIP submission from Colorado on the grounds that it would have included a director's discretion provision inconsistent with CAA requirements, including section 110(a)(2)(A). See, e.g., 75 FR 42342 at 42344 (July 21, 2010) (proposed disapproval of director's discretion provisions); 76 FR 4540 (Jan. 26, 2011) (final disapproval of such provisions).

[14] See, *e.g.,* EPA's 73 FR 66964 at 67034, final rule on ''National Ambient Air Quality Standards for Lead.''

summarizes air quality trends. Furthermore, Illinois EPA submits yearly monitoring network plans to EPA, and EPA approved the 2014 Annual Air Monitoring Network Plan for Pb on August 21, 2013. In this monitoring network approval, EPA noted that the operation of two ambient air monitoring sites for Pb, ArcelorMittal Steel and Johnson Controls, needed to commence as expeditiously as possible. On November 8, 2013, Illinois EPA confirmed that that these two sites had begun operating on October 7, 2013, and October 31, 2013, respectively. Monitoring data from Illinois EPA are entered into AQS in a timely manner, and the state provides EPA with prior notification when changes to its monitoring network or plan are being considered. EPA proposes that Illinois has met the infrastructure SIP requirements of section 110(a)(2)(B) with respect to the 2008 Pb NAAQS.

MDEQ maintains a comprehensive network of air quality monitors throughout Michigan. EPA approved MDEQ's 2014 Annual Air Monitoring Network Plan for Pb on October 23, 2013. MDEQ enters air monitoring data into AQS, and the State provides EPA with prior notification when changes to its monitoring network or plan are being considered. EPA proposes that Michigan has met the infrastructure SIP requirements of section 110(a)(2)(B) with respect to the 2008 Pb NAAQS.

MPCA continues to operate an ambient pollutant monitoring network, and compiles and reports air quality data to EPA. EPA approved MPCA's 2014 Annual Air Monitoring Network Plan for Pb on October 23, 2013. MPCA also provides prior notification to EPA when changes to its monitoring network or plan are being considered. EPA proposes that Minnesota has met the infrastructure SIP requirements of section 110(a)(2)(B) with respect to the 2008 Pb NAAQS.

WDNR continues to operate an extensive monitoring network; EPA approved the state's 2014 Annual Air Monitoring Network Plan for Pb on August 19, 2013. WDNR enters air quality data into AQS in a timely manner, and gives EPA prior notification when considering a change to its monitoring network or plan. EPA proposes that Wisconsin has met the infrastructure SIP requirements of section 110(a)(2)(B) with respect to the 2008 Pb NAAQS.

C. Section 110(a)(2)(C)—Program for Enforcement of Control Measures; PSD

States are required to include a program providing for enforcement of all SIP measures and the regulation of construction of new or modified stationary sources to meet NSR requirements under PSD and NNSR programs. Part C of the CAA (sections 160–169B) addresses PSD, while part D of the CAA (sections 171–193) addresses NNSR requirements.

The evaluation of each state's submission addressing the infrastructure SIP requirements of section 110(a)(2)(C) covers: (i) Enforcement of SIP measures; (ii) PSD program for the 2008 Pb NAAQS; (iii) PSD provisions that explicitly identify oxides of nitrogen (NO_X) as a precursor to ozone in the PSD program; (iv) identification of precursors to $PM_{2.5}$ and the identification of $PM_{2.5}$ and PM_{10} [15] condensables in the PSD program; (v) $PM_{2.5}$ increments in the PSD program; and, (vi) GHG permitting and the ''Tailoring Rule.'' [16] In today's rulemaking, we are evaluating each state's submission as it relates to the enforcement of SIP measures. We are also evaluating the submissions from Illinois, Michigan, and Minnesota with respect to the various PSD program and GHG permitting requirements. We are not taking action on Wisconsin's satisfaction of these requirements, which include a PSD program for the 2008 Pb NAAQS, PSD provisions that explicitly identify NO_X as a precursor to ozone in the PSD program, the identification of precursors to $PM_{2.5}$ and the identification of $PM_{2.5}$ and PM_{10} condensables in the PSD program, $PM_{2.5}$ increments in the PSD program, and GHG permitting and the ''Tailoring Rule.'' Instead, EPA will evaluate Wisconsin's compliance with each of these requirements in a separate rulemaking.

Sub-Element 1: Enforcement of SIP Measures

Illinois continues to staff and implement an enforcement program comprised, and operated by, the Compliance Section and Division of Legal Counsel. 415 ILCS 5/4 provides the Director of Illinois EPA with the authority to implement and administer this enforcement program. Furthermore, Illinois EPA has confirmed that all enforcement actions are brought by the Office of the Illinois Attorney General or local State's Attorney offices, with whom Illinois EPA consults. EPA proposes that Illinois has met the enforcement of SIP measures requirements of section 110(a)(2)(C) with respect to the 2008 Pb NAAQS.

MDEQ continues to staff and implement an enforcement program to assure compliance with all requirements under State law, consistent with the provisions of Act 451. Additionally, this air quality enforcement unit provides support and technical assistance to Michigan's Attorney General on all air pollution enforcement issues referred by MDEQ's Air Quality Division for escalated enforcement action. Lastly, the air quality enforcement unit at MDEQ coordinates formal administrative actions such as contested case hearings, administrative complaints, and revocation of permits to install. Therefore, EPA proposes that Michigan has met the enforcement of SIP measures requirements of section 110(a)(2)(C) with respect to the 2008 Pb NAAQS.

Minnesota Statute chapter 116.07 gives the MPCA the authority to enforce any provisions of the chapter relating to air contamination. These provisions include: Entering into orders; schedules of compliance; stipulation agreements; requiring owners or operators of emissions facilities to install and operate monitoring equipment; and conducting investigations. Minnesota Statute chapter 116.072 authorizes MPCA to issue orders and assess administrative penalties to correct violations of the agency's rules, statutes, and permits, and Minnesota Statute chapter 115.071 outlines the remedies that are available to address such violations. Lastly, Minnesota Administrative Rules 7009.0030 to 7009.0040 provide for enforcement measures. EPA proposes that Minnesota has met the enforcement of SIP measures requirements of section 110(a)(2)(C) with respect to the 2008 Pb NAAQS.

WDNR maintains an enforcement program to ensure compliance with SIP requirements. The Bureau of Air Management houses an active statewide compliance and enforcement team that works in all geographic regions of the State. WDNR refers actions as necessary to the Wisconsin Department of Justice with the involvement of WDNR. Under

[15] PM_{10} refers to particles with diameters between 2.5 and 10 microns, oftentimes referred to as ''coarse'' particles.

[16] In EPA's April 28, 2011, proposed rulemaking for infrastructure SIPs for the 1997 ozone and $PM_{2.5}$ NAAQS, we stated that each state's PSD program must meet applicable requirements for evaluation of all regulated NSR pollutants in PSD permits (*see* 76 FR 23757 at 23760). This view was reiterated in EPA's August 2, 2012, proposed rulemaking for infrastructure SIPs for the 2006 $PM_{2.5}$ NAAQS (*see* 77 FR 45992 at 45998). In other words, if a state lacks provisions needed to adequately address Pb, NO_X as a precursor to ozone, $PM_{2.5}$ precursors, $PM_{2.5}$ and PM_{10} condensables, $PM_{2.5}$ increments, or the Federal GHG permitting thresholds, the provisions of section 110(a)(2)(C) requiring a suitable PSD permitting program must be considered not to be met irrespective of the NAAQS that triggered the requirement to submit an infrastructure SIP, including 2008 Pb NAAQS.

WS chapter 285.13, WDNR has the authority to impose fees and penalties to ensure that required measures are ultimately implemented. WS chapter 285.83 and WS chapter 285.87 provide WDNR with the authority to enforce violations and assess penalties. EPA proposes that Wisconsin has met the enforcement of SIP measures requirements of section 110(a)(2)(C) with respect to the 2008 Pb NAAQS.

Sub-Element 2: PSD Program for the 2008 Pb NAAQS

Pursuant to the 2011 Memo, a state should demonstrate that it is authorized to implement its PSD permit program to ensure that the construction of major stationary sources does not cause or contribute to a violation of the 2008 Pb NAAQS.

Illinois and Minnesota have not adopted or submitted regulations for PSD, although Federally promulgated rules for this purpose are in effect in these two states, promulgated at 40 CFR 52.21. EPA has currently delegated the authority to implement these regulations to Illinois and Minnesota. These Federally promulgated rules include provisions that ensure that the construction of major stationary sources does not cause or contribute to a violation of the 2008 Pb NAAQS. EPA acknowledges that these two states have not satisfied the requirement for a SIP submission, which results in a proposed disapproval with respect to this set of infrastructure SIP requirements of section 110(a)(2)(C). However, Illinois and Minnesota have no further obligations to EPA because both states administer the Federally promulgated PSD regulations.

Michigan's EPA-approved PSD rules, contained at R 336.2801–R 336.2823, contain provisions that adequately address the applicable infrastructure SIP requirements related to the 2008 Pb NAAQS. EPA proposes that Michigan has met this set of infrastructure SIP requirements of section 110(a)(2)(C) with respect to the 2008 Pb NAAQS.

Sub-Element 3: PSD Provisions That Explicitly Identify NO_X as a Precursor to Ozone in the PSD Program

EPA's ''Final Rule to Implement the 8-Hour Ozone National Ambient Air Quality Standard—Phase 2; Final Rule to Implement Certain Aspects of the 1990 Amendments Relating to New Source Review and Prevention of Significant Deterioration as They Apply in Carbon Monoxide, Particulate Matter, and Ozone NAAQS; Final Rule for Reformulated Gasoline'' (Phase 2 Rule) was published on November 29, 2005 (*see* 70 FR 71612). Among other requirements, the Phase 2 Rule obligated states to revise their PSD programs to explicitly identify NO_X as a precursor to ozone (70 FR 71612 at 71679, 71699–71700). This requirement was codified in 40 CFR 51.166, and consisted of the following: [17]

40 CFR 51.166(b)(1)(ii): A major source that is major for volatile organic compounds (VOCs) or NO_X shall be considered major for ozone;

40 CFR 51.166(b)(2)(ii): Any significant emissions increase (as defined at paragraph (b)(39) of this section) from any emissions units or net emissions increase (as defined in paragraph (b)(3) of this section) at a major stationary source that is significant for VOCs or NO_X shall be considered significant for ozone;

40 CFR 51.166(b)(23)(i): Ozone: 40 tons per year (tpy) of VOCs or NO_X;

40 CFR 51.166(b)(49)(i): [18] Any pollutant for which a NAAQS has been promulgated and any constituents or precursors for such pollutants identified by the Administrator (*e.g.,* VOCs and NO_X) are precursors for ozone; and

40 CFR 51.166(i)(5)(i)(e) footnote 1: No *de minimis* air quality level is provided for ozone. However, any net emissions increase of 100 tpy or more of VOCs or NO_X subject to PSD would be required to perform an ambient impact analysis, including the gathering of air quality data.

The Phase 2 Rule required that states submit SIP revisions incorporating the requirements of the rule, including these specific NO_X as a precursor to ozone provisions, by June 15, 2007 (*see* 70 FR 71612 at 71683).

Illinois and Minnesota have not adopted or submitted regulations for PSD, although Federally promulgated rules for this purpose are in effect in these two states, promulgated at 40 CFR 52.21. EPA has currently delegated the authority to implement these regulations to Illinois and Minnesota. These Federally promulgated rules include provisions that explicitly identify NO_X as a precursor to ozone. EPA acknowledges that these two states have not satisfied the requirement for a SIP submission, which results in a proposed disapproval with respect to this set of infrastructure SIP requirements of section 110(a)(2)(C). However, Illinois and Minnesota have no further obligations to EPA because both states administer the Federally promulgated PSD regulations.

On August 9, 2013, and supplemented on September 19, 2013, Michigan submitted revisions to its PSD program incorporating the necessary changes regarding NO_X as a precursor to ozone, consistent with the requirements of the Phase 2 Rule. MDEQ also requested that these revisions satisfy not only the requirements of the Phase 2 Rule, but any applicable PSD requirements associated with the 2008 Pb NAAQS infrastructure SIP. EPA's final approval of MDEQ's SIP revisions with respect to the Phase 2 Rule was published on April 4, 2014 (*see* 79 FR 18802). Therefore, we are proposing to find that Michigan has met this set of requirements of section 110(a)(2)(C) for the 2008 Pb NAAQS regarding the explicit identification of NO_X as a precursor to ozone, consistent with the Phase 2 Rule.

Sub-Element 4: Identification of Precursors to $PM_{2.5}$ and the Identification of $PM_{2.5}$ and PM_{10} Condensables in the PSD Program

On May 16, 2008 (*see* 73 FR 28321), EPA issued the Final Rule on the ''Implementation of the New Source Review (NSR) Program for Particulate Matter Less than 2.5 Micrometers ($PM_{2.5}$)'' (2008 NSR Rule). The 2008 NSR Rule finalized several new requirements for SIPs to address sources that emit direct $PM_{2.5}$ and other pollutants that contribute to secondary $PM_{2.5}$ formation. One of these requirements is for NSR permits to address pollutants responsible for the secondary formation of $PM_{2.5,}$ otherwise known as precursors. In the 2008 rule, EPA identified precursors to $PM_{2.5}$ for the PSD program to be sulfur dioxide (SO_2) and NO_X (unless the state demonstrates to the Administrator's satisfaction or EPA demonstrates that NO_X emissions in an area are not a significant contributor to that area's ambient $PM_{2.5}$ concentrations). The 2008 NSR Rule also specifies that VOCs are not considered to be precursors to $PM_{2.5}$ in the PSD program unless the state demonstrates to the Administrator's satisfaction or EPA demonstrates that emissions of VOCs in an area are significant contributors to that area's ambient $PM_{2.5}$ concentrations.

The explicit references to $SO_{2,}$ NO_X, and VOCs as they pertain to secondary $PM_{2.5}$ formation are codified at 40 CFR 51.166(b)(49)(i)(*b*) and 40 CFR 52.21(b)(50)(i)(*b*). As part of identifying pollutants that are precursors to $PM_{2.5,}$ the 2008 NSR Rule also required states to revise the definition of ''significant'' as it relates to a net emissions increase or the potential of a source to emit

[17] Similar changes were codified in 40 CFR 52.21.

[18] Note that this section of 40 CFR 51.166 has been amended as a result of EPA's Final Rule on the ''Implementation of the New Source Review (NSR) Program for Particulate Matter Less than 2.5 Micrometers ($PM_{2.5}$); the regulatory text as listed was current as of the issuance of the Phase 2 Rule. The current citation for the VOCs and NO_X as precursors for ozone are contained in 40 CFR 51.166 (b)(49)(i)(*b*)(*i*).

pollutants. Specifically, 40 CFR 51.166(b)(23)(i) and 40 CFR 52.21(b)(23)(i) define ''significant'' for $PM_{2.5}$ to mean the following emissions rates: 10 tpy of direct $PM_{2.5}$; 40 tpy of SO_2; and 40 tpy of NO_X (unless the state demonstrates to the Administrator's satisfaction or EPA demonstrates that NO_X emissions in an area are not a significant contributor to that area's ambient $PM_{2.5}$ concentrations). The deadline for states to submit SIP revisions to their PSD programs incorporating these changes was May 16, 2011 (*see* 73 FR 28321 at 28341).[19]

The 2008 NSR Rule did not require states to immediately account for gases that could condense to form particulate matter, known as condensables, in $PM_{2.5}$ and PM_{10} emission limits in NSR permits. Instead, EPA determined that states had to account for $PM_{2.5}$ and PM_{10} condensables for applicability determinations and in establishing emissions limitations for $PM_{2.5}$ and PM_{10} in PSD permits beginning on or after January 1, 2011. This requirement is codified in 40 CFR 51.166(b)(49)(i)(*a*) and 40 CFR 52.21(b)(50)(i)(*a*). Revisions to states' PSD programs incorporating the inclusion of condensables were required be submitted to EPA by May 16, 2011 (*see* 73 FR 28321 at 28341).

Illinois and Minnesota have not adopted or submitted regulations for PSD, although Federally promulgated rules for this purpose are in effect in these two states, promulgated at 40 CFR 52.21. EPA has currently delegated the authority to implement these regulations to Illinois and Minnesota. These Federally promulgated rules include provisions that address the requirements obligated by the 2008 NSR Rule, including those that explicitly identify precursors to $PM_{2.5}$, and account for $PM_{2.5}$ and PM_{10} condensables for applicability determinations and in establishing emissions limitations for $PM_{2.5}$ and PM_{10} in PSD permits. EPA acknowledges that these two states have not satisfied the requirement for a SIP submission, which results in a proposed disapproval with respect to this set of infrastructure SIP requirements of section 110(a)(2)(C). However, Illinois and Minnesota have no further obligations to EPA because both states administer the Federally promulgated PSD regulations.

On August 9, 2013, and supplemented on September 19, 2013, Michigan submitted revisions to its PSD program incorporating the necessary changes obligated by the 2008 NSR Rule, including provisions that explicitly identify precursors to $PM_{2.5}$ and account for $PM_{2.5}$ and PM_{10} condensables for applicability determinations and in establishing emissions limitations for $PM_{2.5}$ and PM_{10} in PSD permits. MDEQ also requested that these revisions satisfy not only the requirements of the 2008 NSR Rule, but any applicable PSD requirements associated with the 2008 Pb NAAQS infrastructure SIP. EPA's final approval of MDEQ's SIP revisions with respect to the 2008 NSR Rule was published on April 4, 2014 (*see* 79 FR 18802). Therefore, we are proposing that Michigan has met this set of requirements of section 110(a)(2)(C) for the 2008 Pb NAAQS regarding the requirements obligated by the 2008 NSR Rule.

Sub-Element 5: $PM_{2.5}$ Increments in the PSD Program

On October 20, 2010, EPA issued the final rule on the ''Prevention of Significant Deterioration (PSD) for Particulate Matter Less Than 2.5 Micrometers ($PM_{2.5}$)—Increments, Significant Impact Levels (SILs) and Significant Monitoring Concentration (SMC)'' (2010 NSR Rule). This rule established several components for making PSD permitting determinations for $PM_{2.5}$, including a system of ''increments'' which is the mechanism used to estimate significant deterioration of ambient air quality for a pollutant. These increments are codified in 40 CFR 51.166(c) and 40 CFR 52.21(c), and are included in the table below.

TABLE 1—$PM_{2.5}$ INCREMENTS ESTABLISHED BY THE 2010 NSR RULE IN MICROGRAMS PER CUBIC METER

	Annual arithmetic mean	24-hour max
Class I	1	2
Class II	4	9
Class III	8	18

The 2010 NSR Rule also established a new ''major source baseline date'' for $PM_{2.5}$ as October 20, 2010, and a new trigger date for $PM_{2.5}$ as October 20, 2011. These revisions are codified in 40 CFR 51.166(b)(14)(i)(*c*) and (b)(14)(ii)(*c*), and 40 CFR 52.21(b)(14)(i)(*c*) and (b)(14)(ii)(*c*). Lastly, the 2010 NSR Rule revised the definition of ''baseline area'' to include a level of significance of 0.3 micrograms per cubic meter, annual average, for $PM_{2.5}$. This change is codified in 40 CFR 51.166(b)(15)(i) and 40 CFR 52.21(b)(15)(i).

Illinois and Minnesota have not adopted or submitted regulations for PSD, although Federally promulgated rules for this purpose are in effect in these two states, promulgated at 40 CFR 52.21. EPA has currently delegated the authority to implement these regulations to Illinois and Minnesota. These Federally promulgated rules include provisions that address the requirements obligated by the 2010 NSR Rule, including the increments established by the 2010 NSR Rule for incorporation into the SIP, as well as the revised major source baseline date, trigger date, and baseline area level of significance for $PM_{2.5}$. EPA acknowledges that these two states have not satisfied the requirement for a SIP submission, which results in a proposed disapproval with respect to this set of infrastructure SIP requirements of section 110(a)(2)(C). However, Illinois and Minnesota have no further obligations to EPA because both states administer the Federally promulgated PSD regulations.

On August 9, 2013, and supplemented on September 19, 2013, Michigan submitted revisions to its PSD program incorporating the necessary changes obligated by the 2010 NSR Rule, including the increments established by the 2010 NSR Rule for incorporation into the SIP, as well as the revised major source baseline date, trigger date, and baseline area level of significance for $PM_{2.5}$. MDEQ also requested that these revisions satisfy not only the requirements of the 2010 NSR Rule, but any applicable PSD requirements associated with the 2008 Pb NAAQS infrastructure SIP. EPA's final approval

[19] EPA notes that on January 4, 2013, the U.S. Court of Appeals for the DC Circuit, in *Natural Resources Defense Council* v. *EPA,* 706 F.3d 428 (D.C. Cir.), held that EPA should have issued the 2008 NSR Rule in accordance with the CAA's requirements for PM_{10} nonattainment areas (Title I, Part D, subpart 4), and not the general requirements for nonattainment areas under subpart 1 (*Natural Resources Defense Council* v. *EPA,* No. 08–1250). As the subpart 4 provisions apply only to nonattainment areas, the EPA does not consider the portions of the 2008 rule that address requirements for $PM_{2.5}$ attainment and unclassifiable areas to be affected by the court's opinion. Moreover, EPA does not anticipate the need to revise any PSD requirements promulgated by the 2008 NSR rule in order to comply with the court's decision. Accordingly, the EPA's approval of Indiana's infrastructure SIP as to elements (C), (D)(i)(II), or (J) with respect to the PSD requirements promulgated by the 2008 implementation rule does not conflict with the court's opinion. The Court's decision with respect to the nonattainment NSR requirements promulgated by the 2008 implementation rule also does not affect EPA's action on the present infrastructure action. EPA interprets the CAA to exclude nonattainment area requirements, including requirements associated with a nonattainment NSR program, from infrastructure SIP submissions due three years after adoption or revision of a NAAQS. Instead, these elements are typically referred to as nonattainment SIP or attainment plan elements, which would be due by the dates statutorily prescribed under subpart 2 through 5 under part D, extending as far as 10 years following designations for some elements.

of MDEQ's SIP revisions with respect to the 2010 NSR Rule was published on April 4, 2014 (*see* 79 FR 18802). Therefore, we are proposing that Michigan has met this set of requirements of section 110(a)(2)(C) for the 2008 Pb NAAQS regarding the requirements obligated by the 2010 NSR Rule.

Sub-Element 5: GHG Permitting and the ''Tailoring Rule''

On June 3, 2010, EPA issued a final rule establishing a ''common sense'' approach to addressing GHG emissions from stationary sources under the CAA permitting programs. The ''Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule,'' or ''Tailoring Rule,'' set thresholds for GHG emissions that define when permits under the NSR PSD and title V operating permit programs are required for new and existing industrial facilities (*see* 75 FR 31514). The Tailoring Rule set the GHG PSD applicability threshold at 75,000 tpy as expressed in carbon dioxide equivalent; if states have not adopted this threshold, sources with GHG emissions above 100 tpy or 250 tpy (depending on source category) would be subject to PSD, effective January 2, 2011. The lower thresholds could potentially result in certain residential and commercial sources triggering GHG PSD requirements.

On December 23, 2010, EPA issued a subsequent series of rules that put the necessary framework in place to ensure that industrial facilities can get CAA permits covering their GHG emissions when needed, and that facilities emitting GHGs at levels below those established in the Tailoring Rule do not need to obtain CAA permits.[20] Included in this series of rules was EPA's issuance of the ''Limitation of Approval of Prevention of Significant Deterioration Provisions Concerning Greenhouse Gas Emitting-Sources in State Implementation Plans,'' referred to as the PSD SIP ''Narrowing Rule'' on December 30, 2010 (*see* 75 FR 82536). The Narrowing Rule limits, or ''narrows,'' EPA's approval of PSD programs that were previously approved into SIPs; the programs in question are those that apply PSD to sources that emit GHG. Specifically, the effect of the Narrowing Rule is that provisions that are no longer approved—*e.g.,* portions of already approved SIPs that apply PSD to GHG emissions increases from sources emitting GHG below the Tailoring Rule thresholds—now have the status of having been submitted by the state but not yet acted upon by EPA. In other words, the Narrowing Rule focuses on eliminating the PSD obligations under Federal law for sources below the Tailoring Rule thresholds.

Illinois and Minnesota have not adopted or submitted regulations for PSD, although Federally promulgated rules for this purpose are in effect in these two states, promulgated at 40 CFR 52.21. EPA has currently delegated the authority to implement these regulations to Illinois and Minnesota. These Federally promulgated rules contain the GHG thresholds as outlined in the Tailoring Rule. EPA acknowledges that the states have not satisfied the requirement for a SIP submission, which results in a proposed disapproval with respect to this set of infrastructure SIP requirements of section 110(a)(2)(C). However, Illinois and Minnesota have no further obligations to EPA because both states administer the Federally promulgated PSD regulations. Note, however, that EPA does propose that Illinois and Minnesota have met the requirement contained in section 110(a)(2)(E) regarding resources specific to permitting GHG.[21]

On July 27, 2010, Michigan informed EPA that the State has both the legal and regulatory authority, as well as the resources, to permit GHG under its SIP-approved PSD permitting program, consistent with the thresholds laid out in the Tailoring Rule.[22] Therefore, EPA proposes that Michigan's GHG PSD permitting program has met this set of requirements of sections 110(a)(2)(C) and (E) for the 2008 Pb NAAQS.

For the purposes of the 2008 Pb NAAQS infrastructure SIPs, EPA reiterates that NSR reform regulations are not in the scope of these actions. Therefore, we are not taking action on existing NSR reform regulations for Illinois, Michigan, Minnesota, and Wisconsin.

To address the pre-construction regulation of the modification and construction of minor stationary sources and minor modifications of major stationary sources, an infrastructure SIP submission should identify the existing EPA-approved SIP provisions and/or include new provisions that govern the minor source pre-construction program that regulates emissions of the relevant NAAQS pollutants. EPA approvals for each state's minor NSR program occurred on: Illinois—May 31, 1972 (37 FR 10862); Michigan—May 6, 1980 (45 FR 29790); Minnesota—May 24, 1995 (60 FR 27411); and, Wisconsin—February 17, 1995 (60 FR 3543). Since these dates, each state agency and EPA have relied on the existing minor NSR program to ensure that new and modified sources not captured by the major NSR permitting programs do not interfere with attainment and maintenance of the 2008 Pb NAAQS.

Furthermore, various sub-elements in this section overlap with elements of section 110(a)(2)(D)(i), section 110(a)(2)(E) and section 110(a)(2)(J). These links will be discussed in the appropriate areas below.

D. Section 110(a)(2)(D)—Interstate Transport

Section 110(a)(2)(D)(i)(I) requires SIPs to include provisions prohibiting any source or other type of emissions activity in one state from contributing significantly to nonattainment, or interfering with maintenance, of the NAAQS in another state.

With respect to the 2008 Pb NAAQS, the 2011 Memo notes that the physical properties of Pb prevent it from experiencing the same travel or formation phenomena as $PM_{2.5}$ or ozone. Specifically, there is a sharp decrease in Pb concentrations as the distance from a Pb source increases. Accordingly, it may be possible for a source in a state to emit Pb at a location and in such quantities that contribute significantly to nonattainment in, or interference with maintenance by, any other state. However, EPA anticipates that this would be a rare situation, *e.g.,* sources emitting large quantities of Pb are in close proximity to state boundaries. The 2011 Memo suggests that the applicable interstate transport requirements of section 110(a)(2)(D)(i)(I) can be met through a state's assessment as to whether or not emissions from Pb sources located in close proximity to its borders have emissions that impact a neighboring state such that they contribute significantly to nonattainment or interfere with maintenance in that state. One way that a state's conclusion could be supported is by the technical support documents used for initial area designations for Pb.

In its infrastructure SIP submission, Illinois noted that a small portion of Madison County and Cook County were designated as nonattainment for the 2008 Pb NAAQS (*see* 75 FR 71033 and 76 FR 72097). EPA's final technical support documents for these two

[20] *http://www.epa.gov/NSR/actions.html#2010.*

[21] Section 110(a)(2)(E) requires that states have the resources to administer an air quality management program. Some states that are not covered by the Narrowing Rule may not be able to adequately demonstrate that they have adequate personnel to issue GHG permits to all sources that emit GHG under the Tailoring Rule thresholds.

[22] Letter from the Director of MDEQ to EPA Region 5 Regional Administrator dated July 27, 2010.

nonattainment areas support the notion that the ambient concentration of Pb are not expected to exceed the NAAQS outside of the nonattainment boundaries. Furthermore, EPA does not believe that the elevated levels of ambient Pb concentrations in Madison County or Cook County (or emissions from any other county) would cause or contribute to a violation of the 2008 Pb NAAQS in a neighboring state, or create a situation in a neighboring state where maintenance of the 2008 Pb NAAQS was not possible. Therefore, EPA proposes that Illinois has met this set of requirements related to section 110(a)(2)(D)(i)(I) for the 2008 Pb NAAQS.

Michigan noted that EPA designated a small portion of Ionia County as nonattainment for the 2008 Pb NAAQS (*see* 76 FR 72097). EPA's final technical support documents for this nonattainment area support the notion that the ambient concentration of Pb are not expected to exceed the NAAQS outside of the nonattainment boundaries. MDEQ's submission also confirms that impact screening performed by the state indicates that no adverse impacts to air quality are expected to neighboring states, Canada, or Class I areas from existing Pb-emitting sources in Michigan. Furthermore, EPA does not believe that the elevated levels of ambient Pb concentrations in Ionia County (or Pb emissions from any other county) would cause or contribute to a violation of the 2008 Pb NAAQS in a neighboring state, the closest of which is Indiana (approximately 100 miles away from the nonattainment area in Ionia County). Similarly, EPA does not believe that Pb concentrations in this area would create a situation in a neighboring state where maintenance of the 2008 Pb NAAQS was not possible. Therefore, EPA proposes that Michigan has met this set of requirements related to section 110(a)(2)(D)(i)(I) for the 2008 Pb NAAQS.

EPA designated a portion of Dakota County in Minnesota as nonattainment for the 2008 Pb NAAQS (*see* 75 FR 71033). Minnesota's submission notes, and EPA has confirmed, that but for the ambient air monitor located in Dakota County, all other monitors in the state have recorded very low values of Pb. EPA's final technical support documents for the nonattainment area in Dakota County support the notion that the ambient concentration of Pb are not expected to exceed the NAAQS outside of the nonattainment boundaries; the distance from Dakota County to the Minnesota-Wisconsin state line is approximately 20 miles. MPCA also notes that the sources of Pb emissions in Minnesota with yearly emissions greater than 0.5 tpy are not located close to any borders with neighboring states. Furthermore, EPA does not believe that the elevated levels of ambient Pb concentrations in Dakota (or emissions from any other county) would cause or contribute to a violation of the 2008 Pb NAAQS in a neighboring state or create a situation in a neighboring state where maintenance of the 2008 Pb NAAQS was not possible. Therefore, EPA proposes that Minnesota has met this set of requirements related to section 110(a)(2)(D)(i)(I) for the 2008 Pb NAAQS.

EPA has designated the entirety of Wisconsin as unclassifiable/attainment for the 2008 Pb NAAQS (*see* 76 FR 72097). In its submission, WDNR notes that there is only one site in the state which requires continued ambient air monitoring for Pb emissions, and this area is approximately 70 miles from the Wisconsin-Illinois state line. Wisconsin also notes that other sources emitting at or above 0.5 tpy or more of Pb were found to contribute less than 50% of the NAAQS to the surrounding area's ambient air quality. EPA does not believe that emissions in any county of Wisconsin would cause or contribute to a violation of the 2008 Pb NAAQS in a neighboring state or create a situation in a neighboring state where maintenance of the 2008 Pb NAAQS was not possible. Therefore, EPA proposes that Wisconsin has met this set of requirements related to section 110(a)(2)(D)(i)(I) for the 2008 Pb NAAQS.

Section 110(a)(2)(D)(i)(II) requires SIPs to include provisions prohibiting any source or other type of emissions activity in one state from interfering with measures required to prevent significant deterioration of air quality or to protect visibility in another state.

EPA notes that each state's satisfaction of the applicable infrastructure SIP PSD requirements for the 2008 Pb NAAQS has been detailed in the section addressing section 110(a)(2)(C). EPA notes that the proposed actions in that section related to PSD are consistent with the proposed actions related to PSD for section 110(a)(2)(D)(i)(II), and they are reiterated below.

Illinois and Minnesota have not adopted or submitted regulations for PSD, although Federally promulgated rules for this purpose are in effect in these two states, promulgated at 40 CFR 52.21. EPA has currently delegated the authority to implement these regulations to Illinois and Minnesota. These Federally promulgated rules contain the applicable provisions contained in the Phase 2 Rule, the 2008 NSR Rule, the 2010 NSR Rule, and the GHG thresholds as outlined in the Tailoring Rule. EPA acknowledges that the states have not satisfied the requirement for a SIP submission, which results in a proposed disapproval with respect to these requirements. However, Illinois and Minnesota have no further obligations to EPA because both states administer the Federally promulgated PSD regulations.

Michigan has submitted revisions to its PSD regulations that are wholly consistent with the EPA's requirements contained in the Phase 2 Rule, the 2008 NSR Rule, and the 2010 Rule. These revisions were approved on April 4, 2014 (*see* 79 FR 18802), and in this rulemaking, we are proposing that Michigan has met the applicable infrastructure SIP requirements for the 2008 Pb NAAQS as they relate to the requirements obligated by EPA's PSD regulations. We are also proposing that Michigan has met the applicable PSD requirements associated with the permitting of GHG emitting sources consistent with the thresholds laid out in the Tailoring Rule.

States also have an obligation to ensure that sources located in nonattainment areas do not interfere with a neighboring state's PSD program. One way that this requirement can be satisfied is through an NNSR program consistent with the CAA that addresses any pollutants for which there is a designated nonattainment area within the state.

Illinois' EPA-approved NNSR regulations can be found in Part 203 of the SIP; Michigan's EPA-approved NNSR regulations can be found in Part 2 of the SIP, specifically in R 336.1220 and R 336.1221; Minnesota's EPA-approved NNSR regulations can be found in chapter 7007.4000–7007.4030; and, Wisconsin's EPA-approved NNSR regulations can be found in NR 408. Each state's NNSR regulations contain provisions for how the state must treat and control sources in Pb nonattainment areas, consistent with 40 CFR 51.165, or appendix S to 40 CFR 51. EPA proposes that Illinois, Michigan, Minnesota, and Wisconsin have met the requirements with respect to the prohibition of interference with a neighboring state's PSD program for the 2008 Pb NAAQS related to section 110(a)(2)(D)(i)(II).

With regard to the applicable requirements for visibility protection of section 110(a)(2)(D)(i)(II), states are subject to visibility and regional haze program requirements under part C of the CAA (which includes sections 169A and 169B). The 2009 Memo, the 2011

Memo, and 2013 Memo state that these requirements can be satisfied by an approved SIP addressing reasonably attributable visibility impairment, if required, or an approved SIP addressing regional haze. Alternatively, the 2011 Memo states that most, if not all, Pb stationary sources are located at distances from Class I areas such that visibility impacts would be negligible. Although Pb can be a component of coarse and fine particles, it generally comprises a small fraction. When EPA evaluated the extent that Pb could impact visibility, Pb-related visibility impacts were found to be insignificant (e.g., less than 0.10%). Therefore, EPA anticipates that Pb emissions will contribute only negligibly to visibility impairment at Class I areas, and states can include an assessment as to this assumption in their submissions.

EPA's final approval of Illinois' regional haze plan was published on July 6, 2012 (*see* 77 FR 39943). The closest Class I area (Mingo National Wildlife Refuge, Missouri) is located more than 150 miles away from the partial Madison County nonattainment area. As a result, EPA anticipates that Class I areas would experience less than 0.10% of adverse visibility impact from any Pb-emitting sources in Illinois. EPA proposes that Illinois has met this set of infrastructure SIP requirements of section 110(a)(2)(D)(i)(II) for the 2008 Pb NAAQS.

EPA's final approval of Michigan's regional haze plan was published on December 3, 2012 (*see* 77 FR 71533). Michigan's impact screening of Pb-emitting sources indicated that no adverse impacts on air quality should be expected in Class I areas. As a result, EPA anticipates that Class I areas would experience less than 0.10% of adverse visibility impact from any Pb-emitting source in Michigan. EPA proposes that Michigan has met this set of infrastructure SIP requirements of section 110(a)(2)(D)(i)(II) for the 2008 Pb NAAQS.

EPA's final approval of Minnesota's regional haze plan was published on June 12, 2012 (*see* 77 FR 34801). While the U.S. Steel Minntac facility is located approximately 50 miles from the closest Class I area (Boundary Waters, Minnesota), EPA had previously determined that the ambient concentrations of Pb in the area around the facility were expected to be less than 50% of the 2008 Pb NAAQS. When the distance between the facility and the Boundary Waters is considered, EPA anticipates that Class I areas would experience less than 0.10% of adverse visibility impact from any Pb-emitting source in Minnesota. EPA proposes that Minnesota has met this set of infrastructure SIP requirements of 110(a)(2)(D)(i)(II) for the 2008 Pb NAAQS.

EPA's final approval of Wisconsin's regional haze plan was published on August 7, 2012 (*see* 77 FR 46952). As previously discussed in the section 110(a)(2)(D)(i), there is only one required Pb monitor in the state, and the local impacts from all other Pb-emitting sources at or above 0.5 tpy are expected to be less than half of the 2008 Pb NAAQS. The closest Class I area (Rainbow Lake, Wisconsin) is located more than 200 miles from the closest Pb-emitting source emitting at or above 0.5 tpy, and EPA anticipates that this area (or any other Class I area) would experience less than 0.10% of adverse visibility impact from any Pb-emitting sources in Wisconsin. EPA proposes that Wisconsin has met this set of infrastructure SIP requirements of 110(a)(2)(D)(i)(II) for the 2008 Pb NAAQS.

Section 110(a)(2)(D)(ii) requires each SIP to contain adequate provisions requiring compliance with the applicable requirements of section 126 and section 115 (relating to interstate and international pollution abatement, respectively).

Section 126(a) requires new or modified sources to notify neighboring states of potential impacts from the source. The statute does not specify the method by which the source should provide the notification. States with SIP-approved PSD programs must have a provision requiring such notification by new or modified sources. A lack of such a requirement in state rules would be grounds for disapproval of this element.

While Illinois and Minnesota have not adopted or submitted regulations for PSD, Federally promulgated rules for this purpose are in effect in each of the states, promulgated at 40 CFR 52.21. EPA has currently delegated the authority to implement these regulations to Illinois and Minnesota. These Federally promulgated rules contain provisions requiring new or modified sources to notify neighboring states of potential negative air quality impacts. EPA acknowledges that the states have not satisfied the requirement for a SIP submission, which results in a proposed disapproval with respect to this set of infrastructure SIP requirements of section 110(a)(2)(D)(ii). However, Illinois and Minnesota have no further obligations to EPA because both states administer the Federally promulgated PSD regulations.

Michigan and Wisconsin have provisions in their respective EPA-approved PSD programs requiring new or modified sources to notify neighboring states of potential negative air quality impacts. The states' submissions reference these provisions as being adequate to meet the requirements of section 126(a). EPA proposes that Michigan and Wisconsin have met the infrastructure SIP requirements of section 126(a) with respect to the 2008 Pb NAAQS. None of the states referenced in this rulemaking have obligations under any other section of section 126.

The submissions from Illinois, Michigan, Minnesota, and Wisconsin affirm that none of these states have pending obligations under section 115. EPA therefore is proposing that these states have met the applicable infrastructure SIP requirements of section 110(a)(2)(D)(ii) related to section 115 of the CAA (international pollution abatement).

E. Section 110(a)(2)(E)—Adequate Resources

This section requires each state to provide for adequate personnel, funding, and legal authority under state law to carry out its SIP, and related issues. Section 110(a)(2)(E)(ii) also requires each state to comply with the requirements respecting state boards under section 128.

Sub-Element 1: Adequate Personnel, Funding, and Legal Authority Under State Law To Carry Out Its SIP, and Related Issues

At the time of its submittal, Illinois EPA cited the recently passed Public Act in the state that provides appropriations for the Illinois Bureau of Air Programs and associated personnel. In addition to the environmental performance partnership agreement (EnPPA) with EPA, Illinois has confirmed that it retains all necessary resources to carry out required air programs. As discussed in previous sections, Illinois EPA has affirmed that 415 ILCS 5/4 and 415 ILCS 5/10 provide the Director, in conjunction with IPCB, with the authority to develop rules and regulations necessary to meet ambient air quality standards and respond to any EPA findings of inadequacy with the Illinois SIP program. Lastly, the IPCB ensures compliance with required laws or elements of the state's attainment plan that are necessary to attain the NAAQS, or that are necessary to comply with the requirements of the CAA. EPA proposes that Illinois has met the infrastructure SIP requirements of this portion of section 110(a)(2)(E) with respect to the 2008 Pb NAAQS.

Michigan's budget ensures that EPA grant funds as well as state funding appropriations are sufficient to administer its air quality management program, and MDEQ has routinely demonstrated that it retains adequate personnel to carry out the duties of this program. Michigan's EnPPA with EPA documents certain funding and personnel levels for MDEQ. Furthermore, Act 451 provides the legal authority under state law to carry out the Michigan SIP. EPA proposes that Michigan has met the infrastructure SIP requirements of this portion of section 110(a)(2)(E) with respect to the 2008 Pb NAAQS.

Minnesota provided information on the state's authorized spending by program, program priorities, and the State budget. MPCA's EnPPA with EPA provides the MPCA's assurances of resources to carry out certain air programs. EPA also notes that Minnesota Statute chapter 116.07 provides the legal authority under State law to carry out the SIP. EPA proposes that Minnesota has met the infrastructure SIP requirements of this portion of section 110(a)(2)(E) with respect to the 2008 Pb NAAQS.

Wisconsin's biennial budget ensures that EPA grant funds as well as State funding appropriations are sufficient to administer its air quality management program, and WDNR has routinely demonstrated that it retains adequate personnel to administer its air quality management program. Wisconsin's EnPPA with EPA documents certain funding and personnel levels at WDNR. As discussed in previous sections, basic duties and authorities in the State are outlined in WS chapter 285.11. EPA proposes that Wisconsin has met the infrastructure SIP requirements of this portion of section 110(a)(2)(E) with respect to the 2008 Pb NAAQS.

As noted above in the discussion addressing section 110(a)(2)(C), the resources needed to permit all sources emitting more than 100 tpy or 250 tpy (as applicable) of GHG would require more resources than any Region 5 State appears to have. This is not a concern in Illinois and Minnesota, because PSD permitting for GHGs is based on Federally promulgated PSD rules that ''tailor'' the applicability to 75,000 tons per year (expressed as carbon dioxide equivalent).

EPA confirms that Michigan's PSD regulations provide the state with adequate resources to issue permits to sources with GHG emissions consistent with the Tailoring Rule thresholds; therefore, EPA proposes that Michigan retains all the resources necessary to implement the requirements of its SIP.

Given the effect of EPA's Narrowing Rule to provide that Wisconsin's approved SIP does not involve permitting GHG sources smaller than the Tailoring Rule thresholds, EPA proposes that Wisconsin has the resources necessary to implement the requirements of its SIP.

Sub-Element 2: State Board Requirements Under Section 128 of the CAA

Section 110(a)(2)(E) also requires each SIP to contain provisions that comply with the state board requirements of section 128 of the CAA. That provision contains two explicit requirements: (i) That any board or body which approves permits or enforcement orders under this chapter shall have at least a majority of members who represent the public interest and do not derive any significant portion of their income from persons subject to permits and enforcement orders under this chapter, and (ii) that any potential conflicts of interest by members of such board or body or the head of an executive agency with similar powers be adequately disclosed.

In today's action, EPA is neither proposing to approve or disapprove the portions of the submissions from Illinois, Michigan, Minnesota, and Wisconsin intended to address the state board requirements of section 110(a)(2)(E)(ii). Instead, EPA will take separate action on compliance with section 110(a)(2)(E)(ii) for these states at a later time. EPA is working with each of these states to address these requirements in the most appropriate way.

F. Section 110(a)(2)(F)—Stationary Source Monitoring System

States must establish a system to monitor emissions from stationary sources and submit periodic emissions reports. Each plan shall also require the installation, maintenance, and replacement of equipment, and the implementation of other necessary steps, by owners or operators of stationary sources to monitor emissions from such sources. The state plan shall also require periodic reports on the nature and amounts of emissions and emissions-related data from such sources, and correlation of such reports by each state agency with any emission limitations or standards established pursuant to this chapter. Lastly, the reports shall be available at reasonable times for public inspection.

Illinois EPA requires regulated sources to submit various reports, dependent on applicable requirements and the type of permit issued to the source. These reports are submitted to the Bureau of Air's Compliance Unit for review, and all reasonable efforts are made by Illinois EPA to maximize the effectiveness of available resources to review the required reports. EPA proposes that Illinois has satisfied the infrastructure SIP requirements of section 110(a)(2)(F) with respect to the 2008 Pb NAAQS.

Michigan Administrative Code (MAC) R 336.2001 to R 336.2004 provide requirements for performance testing and sampling. MAC R 336.2101 to R 336.2199 provide requirements for continuous emission monitoring, and MAC R 336.201 and R 336.202 require annual reporting of emissions. This data is available to the public for inspection. EPA proposes that Michigan has met the infrastructure SIP requirements of section 110(a)(2)(F) with respect to the 2008 Pb NAAQS.

Under Minnesota State air quality rules, any NAAQS is an applicable requirement for stationary sources. Minnesota's monitoring rules have been previously approved by EPA and are contained in Chapter 7011 of Minnesota's SIP. Minnesota Statute chapter 116.07 gives MPCA the authority to require owners or operators of emission facilities to install and operate monitoring equipment, while Chapter 7007.0800 of Minnesota's SIP sets forth the minimum monitoring requirements that must be included in stationary source permits. Lastly, Chapter 7017 of Minnesota's SIP contains monitoring and testing requirements, including rules for continuous monitoring. EPA proposes that Minnesota has met the infrastructure SIP requirements of section 110(a)(2)(F) with respect to the 2008 Pb NAAQS.

WDNR requires regulated sources to submit various reports, dependent on applicable requirements and the type of permit issued, to the Bureau of Air Management Compliance Team. The frequency and requirements for report review are incorporated as part of Wisconsin Administrative Code NR 438 and Wisconsin Administrative Code NR 439. Additionally, WDNR routinely submits quality assured analyses and data obtained from its stationary source monitoring system for review and publication. Basic authority for Wisconsin's Federally mandated Compliance Assurance Monitoring reporting structure is provided in Wisconsin Statute Chapter 285.65. EPA proposes that Wisconsin has met the infrastructure SIP requirements of section 110(a)(2)(F) with respect to the 2008 Pb NAAQS.

G. Section 110(a)(2)(G)—Emergency Powers

This section requires that a plan provide for authority that is analogous to what is provided in section 303 of the CAA, and adequate contingency plans to implement such authority. The 2011 Memo states that infrastructure SIP submissions should specify authority, rested in an appropriate official, to restrain any source from causing or contributing to Pb emissions which present an imminent and substantial endangerment to public health or welfare, or the environment.

Illinois has the necessary authority to address emergency episodes, and these provisions are contained in 415 ILCS 5/34. 415 ILCS 5/43(a) authorizes the Illinois EPA to request a state's attorney from Illinois Attorney General's office to seek immediate injunctive relief in circumstances of substantial danger to the environment or to the public health of persons. EPA proposes that Illinois has met the applicable infrastructure SIP requirements for this portion of section 110(a)(2)(G) with respect to the 2008 Pb NAAQS.

Michigan R 324.5518 of Act 451 provides MDEQ with the authority to require the immediate discontinuation of air contaminant discharges that constitute an imminent and substantial endangerment to the public health, safety, or welfare, or to the environment. Furthermore, R 324.5530 of Act 451 provides for civil action by the Michigan Attorney General for violations described in R 324.5518. EPA proposes that Michigan has met the applicable infrastructure SIP requirements for this portion of section 110(a)(2)(G) with respect to the 2008 Pb NAAQS.

Minnesota Statute 116.11 and Chapter 7000.5000 of the Minnesota SIP contain the emergency powers set forth in the state. Specifically, these regulations allow the agency to direct the immediate discontinuance or abatement of the pollution without notice and without a hearing, or at the request of the agency, the Attorney General may bring an action in the name of the state in the appropriate district court for a temporary restraining order to immediately abate or prevent the pollution. EPA proposes that Minnesota has met the applicable infrastructure SIP requirements for this portion of section 110(a)(2)(G) with respect to the 2008 Pb NAAQS.

WS chapter 285.85 provides the requirement for WDNR to act upon a finding that episode or emergency conditions exist. The language contained in this chapter authorizes WDNR to seek immediate injunctive relief in circumstances of substantial danger to the environment or to public health. EPA proposes that Wisconsin has met the applicable infrastructure SIP requirements for this portion of section 110(a)(2)(G) with respect to the 2008 Pb NAAQS.

As indicated in the 2011 Memo, EPA believes that the central components of a contingency plan for the 2008 Pb NAAQS would be to reduce emissions from the source at issue and to communicate with the public as needed. Where a state believes, based on its inventory of Pb sources and historic monitoring data, that it does not need a more specific contingency plan beyond having authority to restrain any source from causing or contributing to an imminent and substantial endangerment, then the state could provide such a detailed rationale in place of a specific contingency plan.

EPA has reviewed historic data at Pb monitoring sites throughout Illinois, Michigan, Minnesota, and Wisconsin, and believes that a specific contingency plan beyond having authority to restrain any source from causing or contributing to an imminent and substantial endangerment is not necessary at this time. For example, one way to quantify the possibility of imminent and substantial endangerment in this context would be a daily monitored value for Pb that could by itself cause a violation of the 2008 Pb NAAQS.[23] EPA has reviewed data from 2011–2013 (the most recent consecutive 36-month block of complete data) and observes that no such daily monitored value exists. As described in the section detailing interstate transport of Pb, EPA does not anticipate other areas in these states needing specific contingency measures due to low Pb emissions. EPA proposes that Illinois, Michigan, Minnesota, and Wisconsin have met the applicable infrastructure SIP requirements of section 110(a)(2)(G) related to contingency measures for the 2008 Pb NAAQS.

H. Section 110(a)(2)(H)—Future SIP Revisions

This section requires states to have the authority to revise their SIPs in response to changes in the NAAQS, availability of improved methods for attaining the NAAQS, or to an EPA finding that the SIP is substantially inadequate.

As previously mentioned, 415 ILCS 5/4 and 415 ILCS 5/10 provide the Director of Illinois EPA, in conjunction with IPCB, with the authority to develop rules and regulations necessary to meet ambient air quality standards. Furthermore, they have the authority to respond to any EPA findings of inadequacy with the Illinois SIP program. EPA proposes that Illinois has met the infrastructure SIP requirements of section 110(a)(2)(H) with respect to the 2008 Pb NAAQS.

Michigan Act 451 324.5503 and 324.5512 provide the authority to: Promulgate rules to establish standards for ambient air quality and emissions; issue, deny, revoke, or reissue permits; make findings of fact and determinations; make, modify, or cancel orders that require the control of air pollution and/or permits rules and regulations necessary to meet NAAQS; and prepare and develop a general comprehensive plan for the control or abatement of existing air pollution and for control or prevention of any new air pollution. EPA proposes that Michigan has met the infrastructure SIP requirements of section 110(a)(2)(H) with respect to 2008 Pb NAAQS.

Minnesota Statute chapter 116.07 grants the agency the authority to ''[a]dopt, amend, and rescind rules and standards having the force of law relating to any purpose . . . for the prevention, abatement, or control of air pollution.'' EPA proposes that Minnesota has met the infrastructure SIP requirements of section 110(a)(2)(H) with respect to the 2008 Pb NAAQS.

WS chapter 285.11(6) provides WDNR with the authority to develop all rules, limits, and regulations necessary to meet the NAAQS as they evolve, and to respond to any EPA findings of inadequacy with the overall Wisconsin SIP and air management programs. EPA proposes that Wisconsin has met the infrastructure SIP requirements of section 110(a)(2)(H) with respect to the 2008 Pb NAAQS.

I. Section 110(a)(2)(I)—Nonattainment Area Plan or Plan Revisions Under Part D

The CAA requires that each plan or plan revision for an area designated as a nonattainment area meet the applicable requirements of part D of the CAA. Part D relates to nonattainment areas.

EPA has determined that section 110(a)(2)(I) is not applicable to the infrastructure SIP process. Instead, EPA takes action on part D attainment plans through separate processes.

[23] See appendix R to 40 CFR Part 50 for data handling conventions and computations necessary for determining when the NAAQS are met.

J. Section 110(a)(2)(J)—Consultation With Government Officials; Public Notifications; PSD; Visibility Protection

The evaluation of the submissions from Illinois, Michigan, Minnesota, and Wisconsin with respect to the requirements of section 110(a)(2)(J) are described below.

Sub-Element 1: Consultation With Government Officials

States must provide a process for consultation with local governments and Federal Land Managers (FLMs) carrying out NAAQS implementation requirements.

Illinois EPA is required to give notice to the Office of the Attorney General and the Illinois Department of Natural Resources during the rulemaking process. Furthermore, Illinois provides notice to reasonably anticipated stakeholders and interested parties, as well as to any FLM if the rulemaking applies to Federal land which the FLM has authority over. Additionally, Illinois EPA participates in the Lake Michigan Air Director's Consortium (LADCO), which consists of collaboration with the states of Indiana, Michigan, Minnesota, Ohio, and Wisconsin. EPA proposes that Illinois has met the infrastructure SIP requirements of this portion of section 110(a)(2)(J) with respect to the 2008 Pb NAAQS.

MDEQ actively participates in planning efforts that include stakeholders from local governments, the business community, and community activist groups. MDEQ also routinely involves FLMs and Tribal groups in Michigan SIP development. Michigan is also an active member of LADCO. Therefore, EPA proposes that Michigan has met the infrastructure SIP requirements of this portion of section 110(a)(2)(J) with respect to the 2008 Pb NAAQS.

Historically, MPCA actively participated in the Central Regional Air Planning Association as well as the Central States Air Resource Agencies. MPCA is now a full-time member of LADCO, and it has also demonstrated that it frequently consults and discusses issues with pertinent Tribes. Therefore, EPA proposes that Minnesota has met the infrastructure SIP requirements of this portion of section 110(a)(2)(J) with respect to the 2008 Pb NAAQS.

WS chapter 285.13(5) contains the provisions for WDNR to advise, consult, contract, and cooperate with other agencies of the state and local governments, industries, other states, interstate or inter-local agencies, the Federal government, and interested persons or groups during the entire process of SIP revision development and implementation and for other elements regarding air management for which the agency is the officially charged agency. WDNR's Bureau of Air Management has effectively used formal stakeholder structures in the development and refinement of all SIP revisions. Additionally, Wisconsin is an active member of LADCO. EPA proposes that Wisconsin has satisfied the infrastructure SIP requirements of this portion of section 110(a)(2)(J) with respect to the 2008 Pb NAAQS.

Sub-Element 2: Public Notification

Section 110(a)(2)(J) also requires states to notify the public if NAAQS are exceeded in an area and must enhance public awareness of measures that can be taken to prevent exceedances.

Illinois EPA continues to collaborate with the Cook County Department of Environmental Control. This consists of: Continued and routine monitoring of air quality throughout the State, and notifying the public when unhealthy air quality is measured or forecasted. Specific to Pb, Illinois EPA maintains a publicly available Web site that allows interested members of the community and other stakeholders to obtain information about the adverse health effects associated with Pb, as well as the efforts being taken to mitigate elevated levels of Pb.[24] EPA proposes that Illinois has met the infrastructure SIP requirements of this portion of section 110(a)(2)(J) with respect to the 2008 Pb NAAQS.

MDEQ posts current air quality concentrations on its Web pages, and prepares an annual air quality report. Specific to Pb, the agency maintains a Web site devoted to informing the public and other interested parties of the health and environmental effects associated with exposure to Pb, as well as resources for retailers who recycle batteries containing Pb. Lastly, the Pb oriented Web site contains information relating to the nonattainment area in Ionia County including: Monitored values of Pb in Ionia County as well as other sites in Michigan, technical information about the nonattainment designation, soil sampling data, public outreach documents, and ways that the state is addressing the elevated levels of Pb in Ionia County.[25] EPA proposes that Michigan has met the infrastructure SIP requirements of this portion of section 110(a)(2)(J) with respect to the 2008 Pb NAAQS.

Minnesota dedicates portions of the MPCA Web site to enhancing public awareness of measures that can be taken to prevent exceedances. For example, information on these pages includes ways to reduce Pb exposure,[26] as well as the biennial reports that MPCA prepares for the state legislature.[27] EPA proposes that Minnesota has met the infrastructure SIP requirements of this portion of section 110(a)(2)(J) with respect to the 2008 Pb NAAQS.

WDNR maintains portions of its Web site specifically for issues related to the 2008 Pb NAAQS.[28] Information related to the one Pb monitoring site can be found on Wisconsin's Web site, as is the calendar for all public events and public hearings held in the state. EPA proposes that Wisconsin has met the infrastructure SIP requirements of this portion of section 110(a)(2)(J) with respect to the 2008 Pb NAAQS.

Sub-Element 3: PSD

States must meet applicable requirements of section 110(a)(2)(C) related to PSD. Each state's PSD program in the context of infrastructure SIPs has already been discussed in the paragraphs addressing section 110(a)(2)(C) and 110(a)(2)(D)(i)(II), and EPA notes that the proposed actions for those sections are consistent with the proposed actions for this portion of section 110(a)(2)(J). Our proposed actions are reiterated below.

Illinois and Minnesota have not adopted or submitted regulations for PSD, although Federally promulgated rules for this purpose are in effect in these two states, promulgated at 40 CFR 52.21. EPA has currently delegated the authority to implement these regulations to Illinois and Minnesota. These Federally promulgated rules contain the applicable provisions contained in the Phase 2 Rule, the 2008 NSR Rule, the 2010 NSR Rule, and the GHG thresholds as outlined in the Tailoring Rule. EPA acknowledges that the states have not satisfied the requirement for a SIP submission, which results in a proposed disapproval with respect to these requirements. However, Illinois and Minnesota have no further obligations to EPA because

[24] See *http://www.epa.state.il.us/community-relations/fact-sheets/pilsen-neighborhood-lead/fact-sheet-1.html.*

[25] See *http://www.michigan.gov/deq/0,4561,7-135-3307_29693_30031-244345--,00.html.*

[26] See *http://www.pca.state.mn.us/index.php/waste/waste-and-cleanup/waste-management/lead.html.*

[27] See *http://www.pca.state.mn.us/index.php/about-mpca/legislative-resources/legislative-reports/air-quality-in-minnesota-reports-to-the-legislature.html.*

[28] *http://dnr.wi.gov/topic/AirQuality/Pollutants.html.*

both states administer the Federally promulgated PSD regulations.

Michigan has submitted revisions to its PSD regulations that are wholly consistent with the EPA's requirements contained in the Phase 2 Rule, the 2008 NSR Rule, and the 2010 Rule. EPA approved these revisions on April 4, 2014 (*see* 79 FR 18802) and we are proposing that Michigan has met the applicable infrastructure SIP requirements for the 2008 Pb NAAQS as they relate to the requirements obligated by EPA's PSD regulations. We are also proposing that Michigan has met the applicable PSD requirements associated with the permitting of GHG emitting sources consistent with the thresholds laid out in the Tailoring Rule.

In today's action, EPA is not proposing to approve or disapprove Wisconsin's satisfaction of the structural PSD elements for infrastructure SIPs, including the requirements obligated by the Phase 2 Rule, the 2008 NSR Rule, and the 2010 NSR Rule. Further, we are not proposing to approve or disapprove Wisconsin's satisfaction of the applicable PSD requirements associated with the permitting of GHG emitting sources consistent with the thresholds laid out in the Tailoring Rule. We will address Wisconsin's compliance with all of these requirements in a separate rulemaking.

Sub-Element 4: Visibility Protection

With regard to the applicable requirements for visibility protection, states are subject to visibility and regional haze program requirements under part C of the CAA (which includes sections 169A and 169B). In the event of the establishment of a new NAAQS, however, the visibility and regional haze program requirements under part C do not change. Thus, we find that there is no new visibility obligation ''triggered'' under section 110(a)(2)(J) when a new NAAQS becomes effective. In other words, the visibility protection requirements of section 110(a)(2)(J) are not germane to infrastructure SIPs for the 2008 Pb NAAQS.

K. Section 110(a)(2)(K)—Air Quality Modeling/Data

SIPs must provide for performing air quality modeling for predicting effects on air quality of emissions from any NAAQS pollutant and submission of such data to EPA upon request.

Illinois EPA maintains the capability to perform modeling of the air quality impacts of emissions of all criteria pollutants, including the capability to use complex photochemical grid models. This modeling is used in support of the SIP for all nonattainment areas in the state. Illinois EPA also requires air quality modeling in support of permitting the construction of major and some minor new sources under the PSD program. These modeling data are available to EPA as well as the public upon request. Lastly, Illinois EPA participates in LADCO, which conducts regional modeling that is used for statewide planning purposes. EPA proposes that Illinois has met the infrastructure SIP requirements of section 110(a)(2)(K) with respect to the 2008 Pb NAAQS.

MDEQ reviews the potential impact of major and some minor new sources, consistent with 40 CFR part 51, appendix W, ''Guidelines on Air Quality Models.'' These modeling data are available to EPA upon request. Michigan also participates and coordinates with the other LADCO states on regional planning efforts. EPA proposes that Michigan has met the infrastructure SIP requirements of section 110(a)(2)(K) with respect to the 2008 Pb NAAQS.

MPCA reviews the potential impact of major and some minor new sources. Under R 7007.0500, MPCA may require applicable major sources in Minnesota to perform modeling to show that emissions do not cause or contribute to a violation of any NAAQS. Furthermore, MPCA maintains the capability to perform its own modeling. Because Minnesota administers the Federally promulgated PSD regulations, pre-construction permitting modeling is conducted in compliance with EPA's regulations. EPA proposes that Minnesota has met the infrastructure SIP requirements of section 110(a)(2)(K) with respect to the 2008 Pb NAAQS.

WDNR maintains the capability to perform computer modeling of the air quality impacts of emissions of all criteria pollutants, including both source-oriented and more regionally directed complex photochemical grid models. WDNR collaborates with LADCO, EPA, and other Lake Michigan States in order to perform modeling. The authorities to perform modeling in Wisconsin reside in WS chapter 285.11, WS chapter 285.13, and WS chapter 285.60–285.69. EPA proposes that Wisconsin has met the infrastructure SIP requirements of section 110(a)(2)(K) with respect to the 2008 Pb NAAQS.

L. Section 110(a)(2)(L)—Permitting Fees

This section requires SIPs to mandate each major stationary source to pay permitting fees to cover the cost of reviewing, approving, implementing, and enforcing a permit.

Illinois EPA implements and operates the title V permit program, which EPA approved on December 4, 2001 (66 FR 62946) and the provisions, requirements, and structures associated with the costs for reviewing, approving, implementing, and enforcing various types of permits are contained in 415 ILCS 5/39.5. EPA proposes that Illinois has met the infrastructure SIP requirements of section 110(a)(2)(L) for the 2008 Pb NAAQS.

MDEQ implements and operates the title V permit program, which EPA approved on December 4, 2001 (66 FR 62949); revisions to the program were approved on November 10, 2003 (68 FR 63735). Section 324.5522 of Act 451 confers upon MDEQ the authority to levy and collect an annual air quality fee from owners or operators of each fee-subject facility in Michigan as defined in R 336.1212. Michigan R 336.1201 contains the provisions, requirements, and structures associated with the costs for reviewing, approving, implementing, and enforcing various types of permits. EPA proposes that Michigan has met the infrastructure SIP requirements of section 110(a)(2)(L) for the 2008 Pb NAAQS.

MPCA implements and operates the title V permit program, which EPA approved on December 4, 2001 (66 FR 62967). Minnesota Rules 7002.0005 through 7002.0085 contain the provisions, requirements, and structures associated with the costs for reviewing, approving, implementing, and enforcing various types of permits. EPA proposes that Minnesota has met the infrastructure SIP requirements of section 110(a)(2)(L) for the 2008 Pb NAAQS.

WDNR implements and operates the title V permit program, which EPA approved on December 4, 2001 (66 FR 62951); revisions to the program were approved on February 28, 2006 (71 FR 9934). Wisconsin NR 410 contains the provisions, requirements, and structures associated with the costs for reviewing, approving, implementing, and enforcing various types of permits. EPA proposes that Wisconsin has met the infrastructure SIP requirements of section 110(a)(2)(L) for the 2008 Pb NAAQS.

M. Section 110(a)(2)(M)—Consultation/Participation by Affected Local Entities

States must consult with and allow participation from local political subdivisions affected by the SIP.

All public participation procedures pertaining to Illinois EPA are consistent with 35 Illinois Administrative Code Part 164 and Part 252. Part 252 is an approved portion of Illinois' SIP. EPA

proposes that Illinois has met the infrastructure SIP requirements of section 110(a)(2)(M) with respect to the 2008 Pb NAAQS.

In Michigan, memoranda of understanding regarding consultation or participation in the SIP development process have been entered between MDEQ and local political subdivisions. MDEQ also provides opportunity for stakeholder workgroup participation in rule development processes. Public comment periods, and hearings, if requested, are held in accordance with the requirements in 40 CFR Part 51. EPA proposes that Michigan has met the infrastructure SIP requirements of section 110(a)(2)(M) with respect to the 2008 Pb NAAQS.

Minnesota regularly consults with local political subdivisions affected by the SIP, where applicable. EPA observes that Minnesota Statute chapter 116.05 authorizes cooperation and agreement between MPCA and other State and local governments. Additionally, the Minnesota Administrative Procedures Act (Minnesota Statute chapter 14) provides general notice and comment procedures that are followed during SIP development. Lastly, MPCA regularly issues public notices on proposed actions. EPA proposes that Minnesota has met the infrastructure SIP requirements of section 110(a)(2)(M) with respect to the 2008 Pb NAAQS.

In addition to the measures outlined in the paragraph addressing WDNR's submittal regarding consultation requirements of section 110(a)(2)(J), as contained in WS chapter 285.13(5), the state follows a formal public hearing process in the development and adoption of all SIP revisions that entail new or revised control programs or strategies and targets. For SIP revisions covering more than one source, WDNR is required to provide the standing committees of the state legislature with jurisdiction over environmental matters with a 60 day review period to ensure that local entities have been properly engaged in the development process. EPA proposes that Wisconsin has met the infrastructure SIP requirements of section 110(a)(2)(M) with respect to the 2008 Pb NAAQS.

V. What action is EPA taking?

EPA is proposing to approve most elements of submissions from Illinois, Michigan, Minnesota, and Wisconsin certifying that their current SIPs are sufficient to meet the required infrastructure elements under sections 110(a)(1) and (2) for the 2008 Pb NAAQS. We are also proposing to disapprove some elements of submissions from Illinois and Minnesota as they relate to each state's PSD program. As described above, both of these states already administer federally promulgated PSD regulations through delegation, and therefore no practical effect is associated with today's proposed disapproval or future final disapproval of those elements.

EPA's proposed actions for each state's satisfaction of infrastructure SIP requirements, by element of section 110(a)(2) are contained in the table below.

Element	IL	MI	MN	WI
(A): Emission limits and other control measures	A	A	A	A
(B): Ambient air quality monitoring and data system	A	A	A	A
(C)1: Enforcement of SIP measures	A	A	A	A
(C)2: PSD program for Pb	D,*	A	D,*	NA
(C)3: NO_X as a precursor to ozone for PSD	D,*	A	D,*	NA
(C)4: $PM_{2.5}$ Precursors/$PM_{2.5}$ and PM_{10} condensables for PSD	D,*	A	D,*	NA
(C)5: $PM_{2.5}$ Increments	D,*	A	D,*	NA
(C)5: GHG permitting thresholds in PSD regulations	D,*	A	D,*	NA
(D)1: Contribute to nonattainment/interfere with maintenance of NAAQS	A	A	A	A
(D)2: PSD	**	**	**	**
(D)3: Visibility Protection	A	A	A	A
(D)4: Interstate Pollution Abatement	D,*	A	D,*	A
(D)5: International Pollution Abatement	A	A	A	A
(E): Adequate resources	A	A	A	A
(E): State boards	NA	NA	NA	NA
(F): Stationary source monitoring system	A	A	A	A
(G): Emergency power	A	A	A	A
(H): Future SIP revisions	A	A	A	A
(I): Nonattainment area plan or plan revisions under part D	NA	NA	NA	NA
(J)1: Consultation with government officials	A	A	A	A
(J)2: Public notification	A	A	A	A
(J)3: PSD	**	**	**	**
(J)4: Visibility protection	+	+	+	+
(K): Air quality modeling and data	A	A	A	A
(L): Permitting fees	A	A	A	A
(M): Consultation and participation by affected local entities	A	A	A	A

In the above table, the key is as follows:

A Approve
NA No Action/Separate Rulemaking
D Disapprove
+ Not germane to infrastructure SIPs
* Federally promulgated rules in place
** Previously discussed in element (C)

To clarify, EPA is proposing to disapprove the infrastructure SIP submissions from Illinois and Minnesota with respect to certain PSD requirements including: (i) Provisions that adequate address the 2008 Pb NAAQS; (ii) the explicit identification of NO_X as a precursor to ozone consistent with the Phase 2 Rule; (iii) the explicit identification of SO_2 and NO_X as $PM_{2.5}$ precursors (and the significant emissions rates for direct $PM_{2.5}$, and SO_2 and NO_X as its precursors), and the regulation of $PM_{2.5}$ and PM_{10} condensables, consistent with the requirements of the 2008 NSR Rule; (iv) the $PM_{2.5}$ increments and associated implementation rules consistent with the 2010 NSR Rule; and, (v) permitting of GHG emitting sources at the Federal Tailoring Rule thresholds.

EPA is also proposing to disapprove the infrastructure SIP submissions from Illinois and Minnesota with respect to the requirements of section 110(a)(2)(D)(ii) related to interstate pollution abatement. Specifically, this section requires states with PSD

programs have provisions requiring a new or modified source to notify neighboring states of the potential impacts from the source, consistent with the requirements of section 126(a).

However, Illinois and Minnesota have no further obligations to EPA because federally promulgated rules, promulgated at 40 CFR 52.21 are in effect in each of these states. EPA has delegated the authority to Illinois and Minnesota to administer these rules, which include provisions related to PSD and interstate pollution abatement. A final disapproval for Illinois or Minnesota for these infrastructure SIP requirements will not result in sanctions under section 179(a), nor will it obligate EPA to promulgate a FIP within two years of final action if the states do not submit revisions to their PSD SIPs addressing these deficiencies. Instead, Illinois and Minnesota are already administering the federally promulgated PSD regulations.

VI. Statutory and Executive Order Reviews

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

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

In addition, this rule does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on Tribal governments or preempt Tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Lead, Reporting and recordkeeping requirements.

Dated: May 2, 2014.

Susan Hedman,

Regional Administrator, Region 5.

[FR Doc. 2014–11022 Filed 5–12–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2012–0099; FRL–9910–80–Region 6]

Approval and Promulgation of Air Quality Implementation Plans; Texas; Reasonable Further Progress Plan and Motor Vehicle Emissions Budgets for the Dallas/Fort Worth 1997 8-Hour Ozone Nonattainment Area; Enhanced Monitoring; Clean Fuel Fleets and Transportation Conformity

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve revisions to the Texas State Implementation Plan (SIP) to meet certain serious area requirements under section 182(c) of the Clean Air Act (CAA or Act) for the Dallas/Fort Worth (DFW) nonattainment area under the 1997 8-hour ozone standard. Further, we are proposing to approve revisions to the DFW moderate area attainment demonstration SIP that address the failure-to-attain contingency measures and proposing to approve revisions to the Texas SIP that address control of air pollution from motor vehicles and transportation conformity. The EPA is proposing to approve these SIP revisions because they satisfy the requirements of section 110 and part D of the CAA.

DATES: Comments must be received on or before June 12, 2014.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R06–OAR–2012–0099, by one of the following methods:

- *www.regulations.gov.* Follow the on-line instructions.
- *Email:* Ms. Carrie Paige at *paige.carrie@epa.gov.*
- *Mail:* Mr. Guy Donaldson, Chief, Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733.

Instructions: Direct your comments to Docket ID No. EPA–R06–OAR–2012–0099. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Do not submit information through *http://www.regulations.gov* or email, if you believe that it is CBI or otherwise protected from disclosure. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means that EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *http://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment along with any disk or CD–ROM submitted. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters and any form of encryption and should be free of any defects or viruses. For additional information

about EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: The index to the docket for this action is available electronically at *www.regulations.gov* and in hard copy at EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available at either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment with the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below or Mr. Bill Deese at 214–665–7253.

FOR FURTHER INFORMATION CONTACT: Ms. Carrie Paige, Air Planning Section (6PD–L); telephone (214) 665–6521; email address *paige.carrie@epa.gov.*

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

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I. What is the EPA proposing?

The EPA is proposing to approve all or parts of six SIP revisions from the State of Texas as they relate to certain CAA requirements. Our actions fall into three categories. First, the EPA is proposing to approve revisions to the Texas SIP submitted to meet certain serious area requirements of section 182(c) of the Act for the DFW serious nonattainment area under the 1997 ozone standard. Specifically, we are proposing to approve the revised 2002 base year emission inventory (EI), the reasonable further progress (RFP) plan, the RFP motor vehicle emission budgets (MVEBs) for 2011 and 2012, and the RFP contingency provisions. In addition, we are proposing to find that the State has fulfilled the CAA requirements for enhanced ambient monitoring and the clean-fuel fleet programs (CFFPs). Second, we are proposing to approve revisions to the DFW SIP's failure-to-attain contingency measures plan for the moderate ozone nonattainment area under the 1997 ozone standard. Third, we are proposing to approve revisions to Title 30 of the Texas Administrative Code, Chapter 114 (denoted 30 TAC 114 or Chapter 114) pertaining to mobile source control. Specifically, we are proposing to approve revisions that make the Texas transportation conformity rules consistent with the Federal Surface Transportation Reauthorization Act [1] and revisions that add provisions to certain sections within the State's Diesel Emissions Reduction Incentive Program for On-Road and Non-Road Vehicles (DERIP, also often referred to as the Texas Emission Reduction Plan or TERP).

II. Background for the Actions Under Section 182(c) of the CAA (the Serious Area Requirements)

On July 18, 1997, EPA promulgated an 8-hour ozone standard of 0.08 parts per million (ppm) [2] and on April 30, 2004, the EPA designated the DFW area (consisting of Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Parker, Rockwall and Tarrant counties) [3] as a moderate nonattainment area under the 1997 ozone standard with an attainment date of June 15, 2010 (see 69 FR 23858 and 69 FR 23951). However, the DFW area failed to attain the 1997 ozone standard by June 15, 2010, and was consequently reclassified as a serious ozone nonattainment area (75 FR 79302, December 20, 2010).[4] Accordingly, the TCEQ was required to submit revisions to the DFW SIP to meet serious area requirements. In this action, we are addressing the serious area RFP plan, contingency measures, enhanced monitoring and clean fuel fleet requirements that were submitted in revisions dated January 17, 2012.

A. Reasonable Further Progress

The CAA requires that areas designated as nonattainment for ozone and classified as moderate or worse demonstrate RFP in reducing emissions of ozone precursors (nitrogen oxides or NO_X and volatile organic compounds or VOCs).[5] A RFP plan generally is designed to achieve annual progress toward meeting the ozone national ambient air quality standard (NAAQS) through reductions in emissions of NO_X and/or VOCs. On November 29, 2005 (70 FR 71612) and as revised on June 8, 2007 (72 FR 31727), EPA published the Phase 2 final rule to implement the 1997 ozone standard that addressed, among other things, the RFP control and planning obligations as they apply to areas designated nonattainment for the 1997 ozone standard. In the Phase 1 Rule, RFP was defined in § 51.900(p) as meaning for the purposes of the 1997 ozone standard, the progress reductions required under section 172(c)(2) and section 182(b)(1) and (c)(2)(B) and (c)(2)(C) of the CAA (69 FR 23951, 23997, April 30, 2004).[6] RFP plans must also include a MVEB, which provides the allowable on-road mobile emissions an area can produce and continue to demonstrate RFP (57 FR 13498, 13558, April 16, 1992).

The RFP plan for the DFW moderate ozone nonattainment area was approved on October 7, 2008 (73 FR 58475) and it demonstrated required emissions reductions through the end of calendar year 2008 and MVEBs for 2008. Because the area was reclassified to serious, pursuant to section 182(c)(2)(B)(i) of the Act and 40 CFR 51.910, the RFP SIP for the DFW serious ozone nonattainment area must demonstrate NO_X and/or VOC emissions reductions of at least nine percent for the calendar years 2009–2011 and three percent for 2012. The emissions reductions must occur within the nine-county nonattainment area.

B. Contingency Measures

Pursuant to section 172(c)(9) of the Act, RFP plans must include contingency measures that will take effect without further action by the State or EPA, which include additional controls that would be implemented if the area fails to reach the RFP milestones. While the Act does not

[1] The Federal Surface Transportation Reauthorization Act is commonly known as the Safe, Accountable, Flexible, Efficient Transportation Equity Act—A Legacy for Users (SAFETEA–LU).

[2] See 62 FR 38856. In this action we refer to the 1997 8-hour ozone standard as ''the 1997 ozone standard.''

[3] We refer to the DFW nonattainment area for the 1997 ozone standard as ''the nine-county nonattainment area.'' The nine-county nonattainment area consists of the four core counties (Collin, Dallas, Denton and Tarrant) and five ''cradle'' counties. The cradle counties are Ellis, Johnson, Kaufman, Parker and Rockwall, and in prior SIP actions, we referred to these as ''the five new counties.'' Since these counties are no longer new to the nonattainment designation and geographically they ''cradle'' the four core counties, we are adopting the term ''cradle'' herein for ease of identification.

[4] On March 12, 2008, the EPA promulgated a more protective 8-hour ozone standard of 0.075 ppm (73 FR 16436, March 27, 2008). On April 30, 2012, the EPA promulgated designations under the 2008 ozone standard (77 FR 30088, May 21, 2012) and in that action, the EPA designated Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Parker, Rockwall, Tarrant and Wise counties as a moderate ozone nonattainment area. The RFP required under the 2008 ozone standard must be submitted to EPA by July 20, 2015. The submittals under evaluation in today's rulemaking do not specifically address the 2008 ozone standard, but will provide progress toward this new standard.

[5] For additional information on ozone, please visit *www.epa.gov/groundlevelozone.*

[6] See also the RFP regulations at 40 CFR 51.910 and EI regulations at 40 CFR 51.915.

specify the type of measures or quantity of emissions reductions required, EPA interprets the Act to mean that implementation of these contingency measures would provide additional emissions reductions of up to 3% of the adjusted base year inventory (or a lesser percentage that will make up the identified shortfall) in the year following the RFP milestone year. For more information on contingency measures, please see the April 16, 1992 General Preamble (57 FR 13498, 13510) and the Phase 2 implementation rule (70 FR 71612, 71650).

C. Enhanced Monitoring

States with serious and worse ozone nonattainment areas are required to implement, among other things, enhanced ambient monitoring, pursuant to section 182(c)(1) of the Act. The enhanced ambient monitoring identifies the magnitude and type of ozone precursor emissions in the nonattainment area where maximum precursor emissions are expected to impact (see 71 FR 61236, October 17, 2006 and 40 CFR Part 58, Appendix D).

D. Clean Fuel Fleet Program

Section 182(c)(4) of the Act requires States have programs to require certain fleet operators to include a percentage of clean-fuel vehicles in their new fleet purchases to reduce emissions of ozone precursors. Section 182(c)(4) of the Act also allows substitute programs to achieve equivalent reductions. (See 59 FR 50042, September 30, 1994 and 40 CFR part 88).

III. Background for the Failure-to-Attain Contingency Measures

Contingency provisions are also required for attainment plans and on January 14, 2009 (74 FR 1903) we approved the attainment demonstration for the DFW moderate ozone nonattainment area, including the failure-to-attain contingency plan. In an April 6, 2010, SIP revision Texas revised its plan by replacing the plan's reliance on offset lithography with fleet turnover because offset lithography was being implemented in response to EPA's issuance of a control technique guideline (CTG). When the DFW area was reclassified as a serious ozone nonattainment area (75 FR 79302), two failure-to-attain contingency measures were implemented.[7]

IV. Background for the Revisions to Chapter 114

A. The Transportation Conformity Revisions

Section 176(c) of the Act requires states to submit a transportation conformity SIP establishing enforceable procedures for making determinations that metropolitan transportation plans, programs and projects (activities) approved by the Federal Highway Administration or the Federal Transit Administration meet or ''conform to'' the area's air quality SIP. Transportation conformity is a mechanism for ensuring that transportation activities are reviewed and evaluated for their impacts on air quality prior to funding or approval. The intent of transportation conformity is to ensure that new transportation activities do not cause or contribute to new violations, increase the frequency or severity of any existing violations, or delay the timely attainment of air quality standards or the required interim emissions reductions towards attainment. On July 25, 2007, Texas submitted revisions to their transportation conformity requirements that are addressed in this action.

B. The Revisions to the Diesel Emissions Reduction Incentive Program for On-Road and Non-Road Vehicles

The Texas SIP includes a variety of control strategies to reduce ozone precursor emissions in nonattainment and near-nonattainment areas, including the TERP, a program that provides financial incentives to eligible entities to reduce emissions from polluting vehicles and equipment.[8] The basic structure of TERP as an economic incentive program was approved into the SIP on November 14, 2001 (66 FR 57160). Since then, the TERP has grown to offer a variety of grants, including the DERIP. The DERIP is designed to offset the incremental cost of projects that can reduce NO_X emissions from heavy duty diesel trucks and construction equipment in nonattainment areas. This is an incentive to owners and operators to upgrade their fleets at an expedited rate and these upgrades will reduce NO_X emissions to the atmosphere. The EPA approved the DERIP into the Texas SIP on August 19, 2005 (70 FR 48647). On March 25, 2010 and April 13, 2012, Texas submitted revisions to the DERIP that are addressed in this action.

V. What are the EPA's evaluations of these revisions?

Summaries of our analyses are provided in this section. Our detailed evaluations are provided in two technical support documents (TSDs): One addressing the RFP submittal and identified as TSD–A; and the other focused on the revisions to 30 TAC 114 and the failure-to-attain contingency measures and labeled as TSD–B. These TSDs are in the docket for this action.

A. The DFW RFP SIP Revision

On January 17, 2012, the Texas Commission on Environmental Quality (TCEQ) submitted a SIP revision to address the RFP requirements for the DFW serious ozone nonattainment area. The submittal includes a revised 2002 base year EI for stationary and mobile sources, and the RFP plan, which must demonstrate NO_X and/or VOC emissions reductions of at least nine percent for 2009–2011 and three percent for 2012, the RFP MVEBs for 2011 and 2012, and RFP contingency measures.

1. The DFW Base Year Emissions Inventory

The base year EI is the starting point for calculating the reductions necessary to meet the requirements for RFP. Sections 172(c)(3) and 182(b)(1) of the CAA require that nonattainment plan provisions include an inventory of NO_X and VOC emissions from all sources in the nonattainment area. The EPA had previously approved the 2002 base year inventory (73 FR 58475). Since that submittal, more recent data (including, for example, actual local activity data for 2002) and improvements in methods to calculate certain categories within the inventory have become available. Because of these advances, the TCEQ revised the emissions data for the 2002 base year. We have determined that the revised inventory was developed in accordance with EPA guidance and therefore, we propose to approve the revised 2002 base year EI. For reference, the previously approved base year EI (73 FR 58475) is provided in Table 1, reported in tons per day (tpd), along with the revised 2002 base year EI for the DFW area, also reported in tpd. Details on how each of the emissions categories was revised and emissions totals in the various counties are included in TSD–A. Details on how each of the emissions categories was revised is included in TSD–A.

[7] These contingency measures related to Degassing or Cleaning of Stationary, Marine, and Transport Vessels and Petroleum Dry Cleaning Systems (see the Texas Register, 35 TexReg 4268, dated May 21, 2010 and available in the docket for this rulemaking).

[8] Additional information on the TERP is available on the TCEQ Web site at *www.tceq.texas.gov/airquality/terp*. In addition, please see our TSD for the revisions to 30 TAC 114 (labeled as TSD–B) in the docket for this rulemaking.

TABLE 1—DFW RFP 2002 BASE YEAR EI

Source type	NO_X		VOC	
	Previously approved	Revised inventory *	Previously approved	Revised inventory *
Point	79.25	79.24	26.42	26.43
Area	37.04	38.63	237.41	247.03
On-road Mobile	356.23	354.01	161.60	139.70
Non-road Mobile	134.67	153.41	119.60	82.05
Total	607.19	625.29	545.03	495.21

* Submitted to EPA by the TCEQ on January 17, 2012.

2. The Adjusted Base Year Inventory and RFP Target Levels for 2011 and 2012

The 2002 base year EI is the starting point for calculating RFP. Section 182(b)(1)(B) of the Act and 40 CFR 51.910 require that the base year EI be adjusted to exclude certain emissions specified in section 182(b)(1)(D) of the Act, i.e., the emission reductions resulting from the Federal Motor Vehicle Control Programs (FMVCP) promulgated by EPA prior to January 1, 1990, and the regulation of Reid Vapor Pressure promulgated by EPA prior to the enactment of the CAA Amendments of 1990. The result, after subtracting the non-creditable reductions, is the ''adjusted base year inventory.'' The required RFP target levels and emission reductions needed would be calculated using the adjusted base year inventory, resulting in the target levels of emissions for the milestone years, which in this case are 2011 and 2012.

In calculating the RFP target levels, section 182(c)(2)(C) of the Act, 40 CFR 51.910 and EPA's NO_X Substitution Guidance [9] allow NO_X emissions reductions to be substituted for VOC controls if such would maximize reductions in ozone air pollution. Modeling performed by the TCEQ for this RFP plan indicates that ozone formation in the DFW area is more responsive to NO_X: For similar decreases in NO_X (78 tpd) and VOC (80 tpd), the DFW 8-hour ozone design value would be reduced significantly more from NO_X cuts (−3.43 ppb) than VOC (−0.12 ppb). As a result, the State has chosen to focus on NO_X reductions to meet the RFP requirements.

Tables 2 and 3 provide an accounting of the required emissions reductions through 2008 and 2012, and the target emissions levels of NO_X and VOC for 2011 and 2012. For reductions through 2008 the TCEQ provided NO_X reductions for the four core counties and VOC reductions in the five cradle [10] counties (73 FR 58475); we show these reductions in Table 2, using the revised 2002 base year EI. Table 3 shows the reductions required through 2011 and 2012 for the nine-county nonattainment area.

TABLE 2—CALCULATION OF NO_X AND VOC REDUCTIONS THROUGH 2008

[tpd] [11]

Description	NO_X in 4 core counties	VOC in 5 cradle counties
a. 2002 Emissions Inventory	486.53	69.08
b. Non-creditable reductions through 2008	−3.09	2.23
c. 2002 adjusted to 2008 (a–b)	489.62	66.85
d. 15% reductions required through 2008 (0.15 × c)	73.44	10.03

TABLE 3—CALCULATION OF NO_X AND VOC TARGET LEVELS OF EMISSIONS (TPD) THROUGH 2012

Description	9-County area	
	NO_X	VOC
a. 2002 Emissions Inventory	625.29	495.21
b1. Non-creditable reductions, 2002–2011 (FMVCP + RVP)	−0.55	17.53
b2. 15% reductions required through 2008	73.44	10.03
b3. 9% reductions required through 2011	56.33	.....
c. 2002 Adjusted to 2011 [a − (b1+b2+b3)], or 2011 Targets	496.07	467.65
d1. Non-creditable reductions for 2012 (FMVCP + RVP)	−4.62	−4.30
d2. 3% Reductions required for 2012	18.91	.....
e. 2002 Adjusted to 2012 [c − (d1+d2)], or 2012 Targets	481.78	471.95

[9] See *www.epa.gov/ttn/caaa/t1/memoranda/noxsubst.pdf* and *www.epa.gov/ttn/oarpg/t1/memoranda/clarisub.pdf.*

[10] See footnote 3.

[11] These are calculated using the revised 2002 base year EI. For reference, please see the TSD–A.

3. The 2011 and 2012 Projected Emissions Inventories and How the Required Emissions Reductions Are Achieved

Section 182(b)(1)(A) of the Act requires that States provide sufficient control measures in their RFP plans to offset growth in emissions. To do this, the State must estimate the amount of growth that will occur between 2002 and the end of 2011 and 2012. Generally, the State followed our guidelines in estimating the growth in emissions. The projections of growth are labeled as the ''Uncontrolled Inventories'' for 2011 and 2012. Our detailed evaluation is provided in our TSD–A.

Texas estimated emission reductions from State and federal control measures in place between 2002 and the end of 2011 and 2012,[12] and applied these reductions to the appropriate uncontrolled inventories; the results are the ''Controlled Inventories'' for 2011 and 2012. The total amount of VOC and NO_X emissions in the controlled inventories for 2011 and 2012 must be equal to or less than the corresponding total target inventories to demonstrate RFP.

TABLE 4—SUMMARY OF RFP DEMONSTRATION FOR DFW THROUGH 2011

[tpd]

Inventory	NO_X	VOC
2011 Targets	496.07	467.65
2011 Uncontrolled Emissions	1168.59	823.46
Projected Emission Reductions through 2011	759.79	283.01
2011 Projected Emissions after RFP Reductions	408.80	540.45
Surplus (+)/Shortfall (−)	+87.27	−72.80
Is RFP Met? (Surplus greater than Shortfall)	Yes	Yes.

In Table 4, we see that the plan shows a surplus of NO_X emission reductions and a shortfall in the required VOC reductions. The NO_X surplus of 87.27 tpd is approximately 18% more reductions than necessary to meet the target of 496.07 tpd. The VOC shortfall of 72.80 tpd is approximately 16% less reductions than necessary to meet the target of 467.65 tpd. The shortfall in VOC reductions is apparently due to growth in VOC emissions. The Table shows Texas has offset this growth in VOC emissions with additional NO_X reductions on a percentage basis (i.e., 1% NO_X reductions offsets 1% VOC growth). In the RFP submittal, Texas notes they are ''reserving'' 77.29 tpd of the surplus NO_X reductions (approximately 16%) to offset the VOC shortfall. Because Texas has offset the VOC growth plus provided the necessary RFP NO_X reductions, the EPA is proposing that the emissions reductions projected for 2011 are sufficient to meet the 2011 targets.

TABLE 5—SUMMARY OF RFP DEMONSTRATION FOR DFW THROUGH 2012

[tpd]

Inventory	NO_X	VOC
2012 Targets	481.78	471.95
2012 Uncontrolled Emissions	1194.94	846.38
Projected Emission Reductions through 2012	815.86	313.88
2012 Projected Emissions after RFP Reductions	379.08	532.50
Surplus (+)/Shortfall (−)	+102.70	−60.55
Is RFP Met? (Surplus greater than Shortfall)	Yes	Yes.

In Table 5, again we see a surplus of NO_X reductions necessary to offset a shortfall in VOC reductions. The NO_X surplus of 102.70 tpd is approximately 21% greater than necessary to meet the target of 481.78 tpd. The VOC shortfall of 60.55 tpd is approximately 13% less than necessary to meet the target of 471.95 tpd. The NO_X surplus again is greater than the VOC shortfall. In the RFP submittal, Texas notes they are ''reserving'' 61.86 tpd of the surplus NO_X reductions (approximately 13%) to compensate for the VOC shortfall. Because Texas has offset the VOC growth and provided the necessary RFP NO_X reductions, EPA is proposing that the emissions reductions projected for 2012 are sufficient to meet the 2012 targets.

4. The RFP Contingency Measures

The 1997 8-hour ozone RFP plan for a serious nonattainment area must include contingency measures, which are additional controls to be implemented if the area fails to make reasonable further progress. Contingency measures are intended to achieve reductions over and beyond those relied on in the RFP demonstration and could include federal and State measures already scheduled for implementation. The CAA does not preclude a State from implementing such measures before they are triggered. Texas used federal and State measures currently being implemented to meet the contingency measure requirement for the DFW RFP SIP. These measures provide reductions between 2012 and 2013 that are in excess of those needed for RFP. As shown in Table 6, the excess reductions are greater than 3% of the adjusted base year inventory. We are proposing that these reductions are sufficient as RFP contingency measures.

[12] The control measures address emissions from point, area, and mobile (non-road and on-road) sources and are listed in our TSD–A.

TABLE 6—SUMMARY OF RFP DEMONSTRATION FOR DFW, CONTINGENCY MEASURES

[tpd]

Description	NO_X	VOC
2002 Emission Inventory adjusted to 2012	630.46	481.97
3% needed for contingency (630.46 x 0.03)	18.91	0.00
Total RFP contingency reductions available	24.44	15.62
Is the contingency measure requirement met?	Yes	Yes.

5. The Motor Vehicle Emissions Budgets (MVEBs)

The RFP plan must include a MVEB for transportation conformity purposes. The MVEB is the mechanism to ensure that future transportation activities will not produce new air quality violations, worsen existing violations, delay reaching RFP milestones, or delay timely attainment of the NAAQS. A MVEB establishes the maximum amount of emissions allowed in the SIP for on-road motor vehicles.

On January 17, 2012, the TCEQ submitted its RFP SIP, which contains VOC and NO_X MVEBs for 2011 and 2012; these budgets are provided in Table 7. We found the RFP MVEBs (also termed transportation conformity budgets) adequate and on February 27, 2012, the availability of these budgets was posted on our Web site for the purpose of soliciting public comments. The comment period closed on March 28, 2012, and we received no comments. On February 1, 2013, we published the Notice of Adequacy Determination for these RFP MVEBs (78 FR 7429). Once determined adequate, these RFP budgets must be used in future DFW transportation conformity determinations. The adequacy determination represents a preliminary finding by EPA of the acceptability of the MVEB. Today we are proposing that the MVEBs are fully consistent with RFP, and we are proposing to approve the RFP plan, as it sets the allowable on-road mobile emissions the DFW area can produce and continue to demonstrate RFP.

TABLE 7—RFP MOTOR VEHICLE EMISSIONS BUDGETS FOR DFW

[tpd]

Year	NO_X	VOC
2011	197.05	89.54
2012	195.39	82.20

B. The Requirement To Address Enhanced Ambient Monitoring

Section 182(c)(1) of the CAA requires that States with serious and worse nonattainment areas adopt and implement a program to improve air monitoring for ambient concentrations of ozone, NO_X and VOC. The State established an enhanced ambient air quality monitoring network in the form of the Photochemical Assessment Monitoring Stations (PAMS), which was approved into the Texas SIP on October 4, 1994 (59 FR 50502).[13] On January 17, 2012, the TCEQ submitted an attainment demonstration SIP revision that in part demonstrated that by 2012, the DFW area would meet the serious nonattainment area requirement for enhanced monitoring. The submittal stated that the enhanced monitoring would be in place by the attainment deadline of June 15, 2013. In 2012, the air monitor at the Dallas Hinton site was enhanced to add carbonyl[14] measurements. These air monitoring improvements are consistent with section 182(c)(1) of the CAA, the Revisions to the Ambient Air Monitoring Regulations at 71 FR 61236 and 40 CFR Part 58, Appendix D. The 2012 monitoring update is documented in the State's air monitoring network plan, provided in the docket for this rulemaking.[15] We are proposing to approve that portion of the submittal that addresses the requirements of section 182(c)(1) of the CAA for the nine-county nonattainment area.

C. The Requirement To Address Clean-Fuel Fleet Programs

Section 182(c)(4) of the CAA requires that states with serious and worse nonattainment areas implement federal CFFPs. Section 182(c)(4) also allows states to implement substitute programs whose long term emissions reductions are equal to or greater than the federal CFFPs. Texas submitted a substitute program (which included the Texas Clean Fleet or TCF Program) that we approved on February 7, 2001 (66 FR 9203). In addition to TCF Program of fleet measures, this substitute program included substitute stationary source measures. In a subsequent revision to the TCF program, we approved on January 31, 2014 (79 FR 5287), TCEQ repealed their TCF program. In the attainment demonstration SIP revision submitted on January 17, 2012, Texas cited an EPA determination[16] that, beginning with the 2007 model years, both the Tier 2 conventional vehicle and engine standards and heavy-duty vehicle and engine standards are either equivalent to or more stringent than the applicable clean fuel vehicle program low emission vehicle (LEV) standards. In our January 31, 2014 approval action, we explain that because 2007 model year Heavy Duty Diesel and Tier II vehicle meet or exceed the LEV standards and because Texas' substitute measures are still in place, Texas continues to meet the Federal CFFP requirements. We are confirming in today's action that this serious area requirement is met for the DFW area.

We are proposing to approve that portion of the submittal that addresses the requirements of section 182(c)(4) of

[13] Annual revisions to the air monitoring network plan (AMNP) are provided to the EPA for approval and the most recently approved AMNP is in the docket for this rulemaking.

[14] Carbonyl compounds are organic compounds, consisting of a carbon atom double bonded to an oxygen atom. The PAMS measures the three carbonyls formaldehyde, acetaldehyde and acetone. Formaldehyde and acetaldehyde have been found to be very important in the formation of ground-level ozone.

[15] See the Texas 2012 Annual AMNP documents in the docket for this rulemaking.

[16] See EPA Dear Manufacturer Letter CCD–05 (LDV/LDT/MDPV/HDV/HDE/LD–FC), July 21, 2005, in the docket for this rulemaking.

the CAA for the nine-county nonattainment area.

D. Revisions to the Failure-To-Attain Contingency Measures

Section 172(c)(9) of the Act requires nonattainment SIPs to provide for a contingency plan that will take effect without further action by the State or EPA if an area fails to make reasonable further progress or fails to attain the standard by the applicable date. On January 14, 2009, the EPA approved the State's attainment demonstration for the DFW moderate ozone nonattainment area for the 1997 ozone standard, which included a contingency plan (74 FR 1903). On April 6, 2010, the TCEQ submitted revisions that address, among other things, the failure-to-attain contingency measures in the DFW moderate ozone nonattainment area. In this SIP revision, we are acting on only the revisions addressing the failure-to-attain contingency measures in the DFW nonattainment area, which remove offset lithographic printing at 30 TAC 115.449(c) as a contingency measure and substitute surplus emissions reductions from fleet turnover. This revision is necessary because EPA issued a CTG in 2006 for offset lithographic printing, requiring states to update their rules consistent with the requirements of the CTG. Therefore, when Texas responded to the CTG with rulemaking for this source category, it also ''back-filled'' this contingency measure.

Our detailed evaluation is provided in the TSD–B. The surplus reductions from fleet turnover are sufficient to make up the loss of offset lithographic printing as a contingency measure and meet the requirements for a contingency measure under sections 172 and 182 of the CAA. See 57 FR 13498, 13510; and 70 FR 71612, 71651. We are proposing approval of this revision. It should be noted that this proposed approval comes after the fact of implementation of the other contingency measures relied upon in this moderate area contingency plan. Our proposed approval recognizes that these measures met the Act's requirements. As discussed above, the State adopted a serious area plan with its own contingency measures.

E. Revisions to Chapter 114

As noted earlier, we are also evaluating three Texas SIP submittals that revise 30 TAC 114, which addresses control of air pollution from motor vehicles. These submittals include programs or measures that assist in reducing ozone precursor emissions and may be implemented in the DFW area.

1. The Texas Transportation Conformity Rules

Transportation conformity is required by section 176(c) of the Act. The Texas SIP has included transportation conformity provisions since November 8, 1995 (60 FR 56244) and EPA most recently approved revisions to these provisions on July 6, 2005 (70 FR 38776). On July 25, 2007, the TCEQ submitted a SIP revision to make the Texas transportation conformity rules at 30 TAC 114.260 consistent with the Federal Surface Transportation Reauthorization Act, commonly known as the SAFETEA–LU, which was enacted by Congress on August 10, 2005 (Pub. L. 109–59). The July 25, 2007 revision also addresses certain federal requirements relating to $PM_{2.5}$ precursors and when they apply in conformity determinations, pursuant to 40 CFR 93.102 (see also 70 FR 24280, May 6, 2005), and repeals the requirement to perform quantitative PM hotspot analyses, pursuant to 40 CFR 93.116 and 93.123 (see also 71 FR 12468, March 10, 2006). A line-by-line description of the revisions and our evaluation are provided in the TSD–B. These revisions are consistent with the transportation planning rules at 23 CFR Part 450, the conformity rules at 40 CFR Part 93 and EPA's guidance. We are proposing approval of these revisions.

2. The State's Diesel Emissions Reduction Incentive Program (DERIP)

The DERIP is an economic incentive program that is part of the State's TERP program that provides financial incentives to eligible individuals, businesses, and local governments to reduce emissions from polluting vehicles and equipment. On March 25, 2010, and April 13, 2012, the TCEQ submitted SIP revisions that address the DERIP at Chapter 114, Subchapter K (Mobile Source Incentive Programs), Division 3 (Diesel Emissions Reduction Incentive Program for On-Road and Non-Road Vehicles). The March 25, 2010, submission adds stationary engines to the DERIP and provides an allowance for projects involving non-road equipment used for natural gas recovery purposes. The April 13, 2012, revision adds incentive program requirements that include, but are not limited to, the period of commitment by a grant recipient for use of the grant-funded vehicles, requirements on the ownership or lease of the vehicles being replaced, and destruction of the vehicles and engines being replaced. A line-by-line description of the revisions and our evaluation are provided in the TSD–B. These revisions are consistent with EPA's Economic Incentive Program (EIP) Guidance.[17] The revisions provide emissions reductions in Texas, primarily in nonattainment areas and as such, would not interfere with any applicable requirement regarding attainment and RFP, or any other applicable requirement of the CAA. We are proposing approval of these revisions.

VI. Proposed Action

The EPA is proposing to approve revisions to the Texas SIP to meet RFP and certain other requirements of the CAA for the DFW serious nonattainment area under the 1997 8-hour ozone NAAQS. Specifically, the EPA is proposing to fully approve the TCEQ's January 17, 2012 RFP submittal that revises the 2002 base year EI, the RFP plan, the 2011 and 2012 MVEBs, and the contingency measures associated with the DFW RFP SIP. The EPA is also proposing to approve the portions of the TCEQ's January 17, 2012 attainment demonstration submittal that address the CAA requirements for enhanced ambient monitoring and the CFFPs in the DFW serious nonattainment area under the 1997 8-hour ozone NAAQS. We are also proposing to approve the portion of the TCEQ's April 6, 2010 submittal that revises the DFW moderate attainment demonstration SIP's failure-to-attain contingency measures plan. Finally, we are also proposing to fully approve the July 25, 2007, March 25, 2010, and April 13, 2012 submittals to the Texas SIP that address control of air pollution from motor vehicles and transportation conformity rules at 30 TAC 114.260, 30 TAC 114.620, and 30 TAC 114.622. The EPA is proposing to approve these SIP revisions because they satisfy the requirements of section 110 and part D of the CAA and the federal transportation rules.

VII. Statutory and Executive Order Reviews

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

[17] The EPA's EIP Guidance is available at *www.epa.gov/ttn/oarpg/t1/memoranda/eipfin.pdf.*

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

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: April 24, 2014.

Ron Curry,

Regional Administrator, Region 6.

[FR Doc. 2014–10969 Filed 5–12–14; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Internal Agency Docket No. FEMA–B–7771]

Proposed Flood Elevation Determinations for Mercer County, North Dakota and Incorporated Areas

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice of proposed rulemaking; withdrawal.

SUMMARY: The Federal Emergency Management Agency (FEMA) is withdrawing its notice of proposed rulemaking concerning proposed flood elevation determinations for Mercer County, North Dakota and Incorporated Areas.

DATES: *Effective Date:* The notice of proposed rulemaking is withdrawn on May 13, 2014.

ADDRESSES: The docket for this withdrawn rulemaking is available for inspection or copying at 500 C St. SW., Washington, DC 20472.

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov.*

SUPPLEMENTARY INFORMATION: On April 17, 2008, FEMA published a proposed rulemaking at 73 FR 20890, proposing flood elevation determinations along multiple flooding sources in Mercer County, North Dakota. FEMA is withdrawing the proposed rulemaking in order to provide the Expanded Appeals Process to each of the communities that have Special Flood Hazard Areas within Mercer County, North Dakota and Incorporated Areas.

Authority: 42 U.S.C. 4104; 44 CFR 67.4.

Dated: April 25, 2014.

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2014–11003 Filed 5–12–14; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket ID FEMA–2010–0003; Internal Agency Docket No. FEMA–B–1151]

Proposed Flood Elevation Determinations for Mercer County, North Dakota and Incorporated Areas

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice of proposed rulemaking; withdrawal.

SUMMARY: The Federal Emergency Management Agency (FEMA) is withdrawing its notice of proposed rulemaking concerning proposed flood elevation determinations for Mercer County, North Dakota and Incorporated Areas.

DATES: *Effective Date:* The notice of proposed rulemaking is withdrawn on May 13, 2014.

ADDRESSES: The docket for this withdrawn rulemaking is available for inspection or copying at 500 C St. SW., Washington, DC 20472.

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov.*

SUPPLEMENTARY INFORMATION: On October 13, 2010, FEMA published a proposed rulemaking at 75 FR 62751, proposing flood elevation determinations along multiple flooding sources in Mercer County, North Dakota. FEMA is withdrawing the proposed rulemaking in order to provide the Expanded Appeals Process to each of the communities that have Special Flood Hazard Areas within Mercer County, North Dakota and Incorporated Areas.

Authority: 42 U.S.C. 4104; 44 CFR 67.4.

Dated: April 25, 2014.

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2014–11004 Filed 5–12–14; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Parts 385, 386 and 390

[Docket No. FMCSA–2012–0377]

RIN 2126–AB57

Coercion of Commercial Motor Vehicle Drivers; Prohibition

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of proposed rulemaking (NPRM); request for comments.

SUMMARY: FMCSA proposes to adopt regulations that prohibit motor carriers, shippers, receivers, or transportation intermediaries from coercing drivers to operate commercial motor vehicles (CMVs) in violation of certain provisions of the Federal Motor Carrier Safety Regulations (FMCSRs)—including drivers' hours-of-service limits and the commercial driver's license (CDL) regulations and associated drug and alcohol testing rules—or the Hazardous Materials Regulations (HMRs). In addition, the NPRM would prohibit anyone who operates a CMV in interstate commerce from coercing a driver to violate the commercial regulations. This NPRM includes procedures for drivers to report incidents of coercion to FMCSA, rules of practice the Agency would follow in response to allegations of coercion, and describes penalties that may be imposed on entities found to have coerced drivers. This proposed rulemaking is authorized by section 32911 of the Moving Ahead for Progress in the 21st Century Act (MAP–21) and the Motor Carrier Safety Act of 1984 (MCSA), as amended.

DATES: You may submit comments by August 11, 2014.

ADDRESSES: You may submit comments identified by the docket number FMCSA–2012–0377 using any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.*
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Services, U.S. Department of Transportation, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.
- *Hand Delivery:* Ground Floor, Room W12–140, DOT Building, 1200 New Jersey Avenue SE., Washington, DC 20590 between 9 a.m. and 5 p.m. e.t., Monday through Friday, except Federal holidays.

To avoid duplication, please use only one of these four methods. See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: Mr. Charles Medalen, Regulatory Affairs Division, Office of Chief Counsel, (202) 493–0349. FMCSA office hours are from 9 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: This NPRM is organized as follows.

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I. Public Participation and Request for Comments

FMCSA invites you to participate in this rulemaking by submitting comments and related materials.

A. Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (FMCSA–2012–0377), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number ''FMCSA–2012–0377'' and click the search button. When the new screen appears, click on the blue ''Comment Now!'' button and type your comment into the text box in the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

FMCSA will consider all comments and material received during the comment period and may change this proposed rule based on your comments.

B. Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble as being available in the docket online, go to *http://www.regulations.gov* and in the search box insert the docket number ''FMCSA–2012–0377'' in the Keyword box and click ''Search.'' Next, click ''Open Docket Folder'' and you will find all documents and comments related to the proposed rulemaking. If you do not have access to the Internet, you may view the docket online by visiting the Docket Services in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

C. Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the DOT Privacy Act Statement for the Federal Docket Management System published in the **Federal Register** on December 29, 2010 (75 FR 82132), or you may visit *http://www.gpo.gov/fdsys/pkg/FR-2010-12-29/pdf/2010–32876.pdf.*

II. Executive Summary

Purpose and Summary of the Major Provisions

Congress mandated that FMCSA ensure that any regulations adopted pursuant to the Motor Carrier Safety Act of 1984 (MCSA), as amended the Moving Ahead for Progress in the 21st Century Act (MAP–21), do not result in coercion of drivers by motor carriers, shippers, receivers, or transportation intermediaries. This MAP 21 provision authorizes FMCSA to prohibit these entities from coercing drivers to operate CMVs in violation of certain provisions of the FMCSRs or the HMRs. That part of the proposed rulemaking is authorized by sec. 32911 of MAP–21. FMCSA proposes to utilize the broad authority of MCSA [49 U.S.C. 31136(A)(1)–(4)] and authorities transferred from the former Interstate Commerce Commission (ICC) under the ICC Termination Act [49 U.S.C. 13301(a)] to prohibit operators of CMVs from coercing drivers to violate certain

provisions of the Agency's commercial regulations.

The major provisions of this NPRM include prohibitions of coercion, procedures for drivers to report incidents of coercion to FMCSA, and rules of practice the Agency would follow in response to allegations of coercion.

Benefits and Costs

The FMCSA believes that this rulemaking would not create an economically significant impact. The motor carriers, freight forwarders, brokers and transportation intermediaries that previously engaged in acts of coercion against truck or bus drivers will incur compliance cost to operate in accordance with regulations, and they would lose whatever economic benefit that the coercion had gained them. There would be safety benefits from that increased compliance with regulations and driver health benefits if hours of service violations decreased. By foregoing acts of coercion, the drivers would conduct their safety-sensitive work in a manner consistent with the applicable Federal regulations. During the four-year period from 2009 through 2012, there were 253 OSHA whistleblower complaints with merit and 20 Office of the Inspector General (OIG) investigations concerning acts of coercion by motor carriers. This is an average of 68.25 acts of coercion per year during the four-year period. The Agency estimates it would be less than the $100 million threshold required for economic significance under E.O. 12866.

III. Acronyms and Abbreviations

CDL Commercial Driver's License
CMV Commercial Motor Vehicle
DOT Department of Transportation
FMCSA Federal Motor Carrier Safety Administration
FMCSRs Federal Motor Carrier Safety Regulations
HOS Hours of Service
HMRs Hazardous Materials Regulations
ICC Interstate Commerce Commission
MAP–21 Moving Ahead for Progress in the 21st Century
MCSA or 1984 Act Motor Carrier Safety Act of 1984
NAICS North American Industry Classification System
OIG Office of Inspector General
OSHA Occupational Safety and Health Administration
SBA Small Business Administration
STAA Surface Transportation Assistance Act of 1982

IV. Legal Basis for This Rulemaking

This proposed rule is based on the authority of the Motor Carrier Safety Act of 1984 (MCSA or 1984 Act) [49 U.S.C. 31136(a)], as amended by the Moving Ahead for Progress in the 21st Century Act (MAP–21) [Pub. L. 112–141, section 32911, 126 Stat. 405, 818, July 6, 2012] and on 49 U.S.C. 13301(a), as amended by the ICC Termination Act of 1995 (ICCTA) [Pub. L. 104–88 (Dec. 29, 1995) [Pub. L. 104–88, 109 Stat. 803, December 29, 1995].

The 1984 Act confers on the Department of Transportation (DOT) authority to regulate drivers, motor carriers, and vehicle equipment.

> At a minimum, the regulations shall ensure that—(1) commercial motor vehicles are maintained, equipped, loaded, and operated safely; (2) the responsibilities imposed on operators of commercial motor vehicles do not impair their ability to operate the vehicles safely; (3) the physical condition of operators of commercial motor vehicles is adequate to enable them to operate the vehicles safely . . .; and (4) the operation of commercial motor vehicles does not have a deleterious effect on the physical condition of the operators [49 U.S.C. 31136(a)].

Section 32911 of MAP–21 enacted a fifth requirement, i.e., that the regulations ensure that ''(5) an operator of a commercial motor vehicle is not coerced by a motor carrier, shipper, receiver, or transportation intermediary to operate a commercial motor vehicle in violation of a regulation promulgated under this section, or chapter 51 or chapter 313 of this title'' [49 U.S.C. 31136(a)(5)].

The 1984 Act also includes more general authority to ''(10) perform other acts the Secretary considers appropriate'' [49 U.S.C. 31133(a)(10)].

The NPRM includes two separate prohibitions. One would prohibit motor carriers, shippers, receivers, or transportation intermediaries from coercing drivers to violate regulations based on section 31136 (which is the authority for many parts of the FMCSRs), 49 U.S.C. chapter 313 (the authority for the commercial driver's license (CDL) and drug and alcohol regulations), and 49 U.S.C. chapter 51 (the authority for the hazardous material regulations). This is required by 49 U.S.C. 31136(a)(5).

A second provision would prohibit entities that operate CMVs in interstate commerce from coercing drivers to violate the commercial regulations. As explained more fully below, this provision is based on the broad general authority of 49 U.S.C. 31136(a)(1)–(4), especially paragraphs (a)(1) and (2). Banning coercion to violate the safety-related commercial regulations is well within the scope of section 31136(a)(1)–(4). Applying the same ban to commercial provisions that are not immediately related to safety is nonetheless consistent with the goals of section 31136 and will help to inhibit the growth of a culture of indifference to regulatory compliance, a culture known to contribute to unsafe CMV operations. Banning coercion to violate the commercial regulations is also within broad authority transferred from the former Interstate Commerce Commission to prescribe regulations to carry out Part B of Subtitle IV of Title 49, U.S.C. 13301(a). This prohibition would apply to operators of CMVs, which are mainly motor carriers, but not to shippers, receivers, or transportation intermediaries, since they are not subject to section 31136(a)(1)–(4) or section 13301.

Together, these two provisions would ensure against most kinds of coercion drivers might encounter.

This proposed rule would also adopt procedures for drivers to report coercion and rules of practice the Agency would follow.

FMCSA believes the reduction of regulatory violations caused by coercion will prove conducive to improved driver health and well-being, consistent with the objectives of section 31136(a)(2)–(4).

Before prescribing any regulations, FMCSA must consider their ''costs and benefits'' [49 U.S.C. 31136(c)(2)(A) and 31502(d)]. Those factors are discussed in this proposed rule.

V. Background

Section 32911 of MAP–21 is the most recent example of Congress' recognition of the important role the public plays in highway safety. In the 1980s, Congress implemented new financial responsibility requirements for motor carriers of property and passengers to encourage the insurance industry to exercise greater scrutiny over the operations of motor carriers as one method to improve safety oversight (section 30 of the Motor Carrier Act of 1980 (Pub. L. 96–296) and section 18 of the Bus Regulatory Reform Act of 1982 (Pub. L. 97–261)).

Section 32911 of MAP–21 represents a similar congressional decision to expand the reach of motor carrier safety regulations from the supply side (the drivers and carriers traditionally regulated by the Federal government) to the demand side—the shippers, receivers, brokers, freight forwarders, travel groups and others that hire motor carriers to provide transportation and whose actions have an impact on CMV safety.

Economic pressure in the motor carrier industry affects commercial drivers in ways that can affect safety adversely. For years, drivers have

voiced concerns that other parties in the logistics chain are frequently indifferent to the operational limits imposed on them by the FMCSRs. Allegations of coercion were submitted in the docket for the 2010–2011 HOS rulemaking.[1] Also, drivers and others who testified at FMCSA listening sessions and before Congress said that some motor carriers, shippers, receivers, tour guides and brokers insist that a driver deliver a load on a schedule that would be impossible to meet without violating HOS or other regulations. Drivers may be pressured to operate vehicles with mechanical deficiencies, despite the restrictions imposed by the safety regulations. Drivers who object that they must comply with the FMCSRs are sometimes told to get the job done despite the restrictions imposed by the safety regulations. The consequences of their refusal to do so are either stated explicitly or implied in unmistakable terms: Loss of a job, denial of subsequent loads, reduced payment, denied access to the best trips, etc.

Although sec. 32911 of MAP–21 amended 49 U.S.C. 31136(a), it did not amend the jurisdictional definitions in 49 U.S.C. 31132, which specify the reach of FMCSA's authority to regulate motor carriers, drivers, and CMVs. Thus, it appears that Congress did not intend to apply all of the FMCSRs to shippers, receivers, and transportation intermediaries not now subject to those requirements. [Motor carriers, of course, have always been subject to the FMCSRs.] Instead, sec. 32911 prohibited these entities from coercing drivers to violate most of the FMCSRs. This necessarily confers upon FMCSA the jurisdiction over shippers, receivers, and transportation intermediaries necessary to enforce that prohibition.

Although MAP–21 did not address coercion to violate the commercial regulations the Agency inherited in the ICC Termination Act of 1995, FMCSA proposes to adopt such a rule in order to ensure that there is no significant gap in the applicability of the coercion prohibition. As discussed above in the Legal Basis section, the Motor Carrier Safety Act of 1984 gives the Agency broad authority to ensure that CMVs are maintained, equipped, loaded, and operated safely, and that the responsibilities imposed on drivers do not impair their ability to operate CMVs safely [49 U.S.C. 31136(a)(1)–(2)]. Some of the commercial regulations have effects related to safety. Designation of a process agent under 49 CFR part 366 ensures that parties injured in a CMV crash can easily serve legal documents on the carrier operating the CMV, wherever the location of its corporate offices. Registration as a for-hire motor carrier under 49 CFR part 365, or as a broker under 49 CFR part 371, ensures that an applicant has met the minimum standards for safe and responsible operations. Coercion of drivers to violate requirements such as these could have an effect on their ability to operate CMVs safely, e.g., requiring a driver to operate a vehicle in interstate commerce when the owner had neither obtained operating authority registration from FMCSA nor filed proof of insurance.

The minimum requirement to obtain FMCSA authority to operate as a for-hire motor carrier, freight forwarder, or broker under 49 U.S.C. 13902, 13903, or 13904, respectively, is willingness and ability to comply with ''this part and the applicable regulations of the Secretary. . . .'' Among those ''applicable regulations'' would be this NPRM's ban on coercing drivers to violate the commercial regulations. For-hire motor carriers are subject to an even more explicit requirement to observe ''any safety regulations imposed by the Secretary'' [49 U.S.C. 13902(a)(1)(B)(i)], including proposed § 390.6(a)(2). Moreover, independent of MAP–21, FMCSA has statutory authority under 49 U.S.C. 13301(a), formerly vested in the Interstate Commerce Commission, to prescribe regulations to carry out chapter 139 and the rest of Part B of Subtitle IV of Title 49. The prohibition on coercing drivers to violate the commercial regulations is within the scope of this authority.

Because both of the coercion prohibitions described above are based on 49 U.S.C. 31136(a), codified in subchapter III of chapter 311, violations of those rules would be subject to the civil penalties in 49 U.S.C. 521(b)(2)(A), which provides that

> any person who is determined by the Secretary, after notice and opportunity for a hearing, to have committed an act that is a violation of the regulations issued by the Secretary under subchapter III of chapter 311 (except sections 31138 and 31139[2]) or section 31502 of this title shall be liable to the United States for a civil penalty in an amount not to exceed $10,000 for each offense.

The proposed prohibitions on coercion would be issued under subchapter III of chapter 311—namely 49 U.S.C. 31136(a)—and the statutory penalty in sec. 521(b)(2)(A) would therefore be applicable. However, pursuant to the Debt Collection Improvement Act of 1996 [Pub. L. 104–134, title III, chapter 10, sec. 31001(s), 110 Stat. 1321–373], the inflation-adjusted civil penalty per offense would be $11,000 49 CFR part 386, App. B, Paragraph (a)(3).

VI. FMCSA Proposal

The Agency's proposal would add § 390.6(a)(1) to 49 CFR part 390. It would prohibit motor carriers, shippers, receivers, and transportation intermediaries from threatening drivers with loss of work or other economic opportunities for refusing to operate a CMV under circumstances that those entities knew, or should have known, would require the driver to violate 49 CFR parts 171–173, 177–180, 380–383, or 390–399, or §§ 385.105(b), 385.111(a), (c)(1), or (g), or 385.415, or 385.421. Section 390.6(a)(2) would prohibit motor carriers from using those threats to compel drivers to operate such vehicles in violation of 49 CFR parts 356, 360, or 365–379.

The standard ''knew, or should have known'' is essentially a restatement of the common law principle of ''respondeat superior,'' which holds the ''master'' (employer) liable for the acts of his ''servant'' (employee). In most cases, FMCSA holds motor carriers responsible for the actions of their drivers (*see,* § 390.11). Because a carrier is responsible for its drivers' compliance with the hours of service (HOS) regulations, it has an affirmative duty before assigning a trip to ensure that the driver has sufficient time left under the HOS rules to complete that run. When a shipper, receiver, or transportation intermediary directs a driver to complete a run within a certain time, it has assumed the role normally reserved to the driver's employer. As such, it may commit coercion if it fails to heed a driver's objection that the request would require him/her to break the rules. The shipper, receiver, or transportation intermediary will not be excused from liability for coercion because it did not inquire about the driver's time remaining or pretended not to hear the objection. When directing the driver's actions, these entities ''should have known'' whether the driver could complete the run without violating the FMCSRs.

An act of coercion by a carrier, shipper, receiver, or transportation intermediary does not absolve the driver of his responsibility to comply with safety regulations, including the HOS rules. Furthermore, FMCSA's definition of coercion prohibits threats by carriers, shippers, receivers, or transportation intermediaries to withhold future business from a driver for objecting to

[1] See 76 FR 81162.

[2] Sections 31138 and 31139 prescribe minimum financial responsibility standards for the transportation of passengers and property, respectively.

operate a vehicle in violation of the safety regulations. A threat would not constitute coercion unless the driver objects or attempts to object to the operation of the vehicle for reasons related to the HOS (or other) regulations. FMCSA invites comments on whether—and, if so, how—drivers may modify their interactions with shippers, receivers, and transportation intermediaries in response to this rule.

In cases of coercion, FMCSA could impose a civil penalty not to exceed $11,000 per offense. In addition, FMCSA is authorized to suspend, amend, or revoke the operating authority registration of a for-hire motor carrier, broker, or freight forwarder for ''willful failure to comply with . . . an applicable regulation or order of the Secretary . . .'' [49 U.S.C. 13905(d)]. One of the ''applicable regulation[s]'' that could trigger the suspension or revocation of operating authority is proposed 49 CFR 390.6. The proposed rule against coercion, of course, would apply as well to private motor carriers that do not need operating authority registration; the only available penalties in that case would be financial.

The Agency has announced plans to conduct a survey of drivers and carriers that addresses the issue of harassment and coercion through the use of electronic logging devices (ELDs) and related technologies (77 FR 74267, May 28, 2013). The Agency will consider the results of the survey as part of its efforts to ensure that the ELD rulemaking does not increase the likelihood of harassment or coercion of drivers, as required by sec. 32301(b) of MAP–21. Today's rulemaking proposal deals with coercion in a context broader than electronic logging devices. It is important that comments specific to the supplemental NPRM on electronic logging devices, which was published March 28, 2014 (79 FR 17656), are directed to that rulemaking (docket # FMCSA–2010–0167).

The Agency specifically welcomes your comments on what types of coercion are likely to occur. FMCSA believes most allegations of coercion will involve the HOS regulations or vehicle maintenance, but welcomes comments on any kind of coercion that this rule may address.

Motor carriers that operate CMVs must be aware that they may not coerce drivers to violate the commercial regulations specified in § 390.6(a)(2).

There may be some overlap between the anti-coercion provisions of this proposed rule and the employee protection provision of the Surface Transportation Assistance Act (STAA), administered by the Labor Department (*see,* 49 U.S.C. 31105, 29 CFR 1978.100, *et seq.*). STAA and the regulations prohibit, among other things, the discharge or discipline of, or discrimination against, a driver concerning pay or terms or privileges of employment when a driver refuses to operate a vehicle because it violates a U.S. CMV safety or health standard or because the driver has a reasonable apprehension of serious injury to him- or herself or the public as a result of the vehicle's unsafe condition [49 U.S.C. 31105(a)(1)]. If the Labor Department determines that a driver was fired or suffered any adverse action for thus refusing to compromise safety, it can order the employer to reinstate the driver, pay back pay and compensatory damages, pay punitive damages up to $250,000 where warranted, and take other remedial actions.

The Labor Department's mandate under 49 U.S.C. 31105 is to protect drivers from discharge or other discrimination based on a driver's refusal to violate safety regulations, among other things, and it has broad authority to pursue that goal. FMCSA's mandate is safety. Under sec. 32911 and the broad provisions of the 1984 Act, as amended by MAP–21, FMCSA has a mandate to protect drivers by deterring coercion to violate the FMCSRs but the Agency has no authority to compensate drivers who experience coercion. The remedies available to FMCSA are civil penalties in all cases and the suspension or revocation of operating authority in some cases. A driver who files a complaint about discharge or other discrimination with OSHA may be able to file a complaint about coercion with FMCSA.

Drivers alleging illegal discrimination or discipline under 29 CFR 1978.100, *et seq.,* or coercion under 49 CFR 390.6, bear a substantial burden of proof. Neither OSHA nor FMCSA can proceed without evidence and the driver will have to provide much of that evidence. The proposed new complaint procedures in 49 CFR 386.12(e) and 390.6(b) allow drivers to present whatever evidence they have to substantiate an allegation of coercion.

Parties that violate the prohibition of coercion would be subject to a maximum civil penalty of $11,000 per violation. Furthermore, a violation of section 390.6 by a motor carrier would be an acute violation under Appendix B, section VII of part 385, and thus could potentially affect the carrier's safety fitness rating.

In determining the amount of any civil penalty, Congress instructed FMCSA to consider a number of factors, including the nature, circumstances, extent, and gravity of the violation committed, as well as the degree of culpability, history of prior offenses, effect on the ability to continue to do business, and other such matters as justice and public safety may require. Congress instructed FMCSA to calculate each penalty to induce further compliance [49 U.S.C. 521(b)(2)(D)]. Congress, however, entrusted FMCSA with the responsibility to ensure motor carriers operate safely by imposing penalties designed to ensure prompt and sustained compliance with safety laws (section 222 of the Motor Carrier Safety Improvement Act of 1999 (MCSIA) [Pub. L. 106–159, 113 Stat. 1769, Dec. 9, 1999, 49 U.S.C. 521 note].

VII. Section-by-Section Description

A. Part 385

The rule would make § 390.6(a)(1) and (2) ''acute'' regulations in section VII of Appendix B to 49 CFR part 385.

B. Part 386

Section 386.1, ''Scope of the rules in this part,'' would be amended by adding a new paragraph (c) referring to the filing and handling of coercion complaints under new § 386.12(e).

The title of § 386.12 would be changed to ''Complaint of substantial violation,'' which is the subject of that section. A new § 386.12(e), ''Complaint of coercion,'' would be added. The procedures to file and handle coercion complaints would be essentially the same as those for substantial violations, except that the complaint would be filed with the FMCSA Division Administrator of the State where the driver was when the alleged coercion occurred.

C. Part 390

Section 390.3(a) would be amended to include a reference to the coercion provisions in § 386.12(e) and § 390.6, and describe the applicability of those provisions.

Section 390.5 would be amended to add definitions of ''Coerce or coercion,'' ''Receiver or consignee,'' ''Shipper,'' and ''Transportation intermediary.'' The definitions of ''Receiver or consignee,'' ''Shipper,'' and ''Transportation intermediary'' would make these entities subject to the prohibition on coercion in § 390.6 only when shipping, receiving or arranging transportation of property (and in the case of ''transportation intermediaries,'' passengers) in interstate commerce. Although the term ''transportation intermediary'' is commonly associated with brokers and freight forwarders, it also includes travel agents and similar entities that arrange group tours or trips

and contract with motorcoach operators for transportation services. Such intermediaries and their agents are subject to the prohibition on coercion. Because the hazardous materials regulations apply to transportation in intrastate commerce, the definitions make clear that the prohibition on coercion applies to parties that ship, receive, or arrange transportation of hazardous materials in interstate or intrastate commerce.

Section 390.6(a)(1) would be added to prohibit motor carriers, shippers, receivers, or transportation intermediaries, or the agents, officers, or representatives of such entities, from coercing drivers to operate CMVs in violation of 49 CFR parts 171–173, 177–180, 380–383, or 390–399, or §§ 385.105(b), 385.111(a), (c)(1), or (g), 385.415, or 385.421. These parts correspond to the statutory language in 49 U.S.C. 31136(a)(5). Parts 171–173 and 177–180 are the hazardous materials regulations applicable to highway transportation that were promulgated under 49 U.S.C. chapter 51. Parts 382–383 are the commercial driver's license (CDL) and drug and alcohol testing regulations promulgated under 49 U.S.C. chapter 313. Parts 390–399 are those portions of the FMCSRs adopted under the authority (partial or complete) of 49 U.S.C. 31136(a). The other parts or sections listed are based on one or more of the statutes referenced in 49 U.S.C. 31136(a)(5).

Section 390.6(a)(2) would be added to prohibit operators of CMVs or their agents, officers, or representatives, from coercing drivers to violate 49 CFR parts 356, 360, or 365–379. This subsection is based on the authority of 49 U.S.C. 31136(a)(1)–(4) and 49 U.S.C. 13301(a).

Section 390.6(b) would describe the procedures for a driver to file a complaint of coercion with FMCSA.

VIII. Regulatory Analyses

E.O. 12866 (Regulatory Planning and Review and DOT Regulatory Policies and Procedures as Supplemented by E.O. 13563)

FMCSA has determined preliminarily that this proposed rule is a significant regulatory action under E.O. 12866 (58 FR 51735, October 4, 1993), as supplemented by E.O. 13563 (76 FR 3821, January 21, 2011), and significant within the meaning of the DOT regulatory policies and procedures (44 FR 11034, February 26, 1979). The estimated economic costs of the proposed rule would not exceed the $100 million annual threshold (as explained below). The Agency expects the proposed rule to have substantial congressional and public interest because it would potentially impose civil penalties on entities not previously subject to the Agency's jurisdiction (shippers, receivers, and transportation intermediaries).

This NPRM would prohibit motor carriers, shippers, receivers and transportation intermediaries from threatening drivers who refuse to operate a CMV under certain circumstances with loss of employment, future business, or other economic harm. Additionally, it would prohibit operators of CMVs from making the same threats to induce drivers to violate 49 CFR parts 356, 360, or 365–379. FMCSA is proposing to add to Appendix B in 49 CFR part 385 new paragraphs that would define § 390.6(a)(1) and (2) as acute regulations with respect to motor carriers.

Extent of Economic Impact

The 1982 Surface Transportation Assistance Act (STAA) includes whistleblower protections for motor carrier employees (49 U.S.C. 31105). OSHA, which administers the complaint process created by Section 31105, received 1,158 complaints between FY 2009 and FY 2012.[3] OSHA found that 253 of them (22 percent) had merit.[4] Between FY 2009 and FY 2012, the OIG hotline received 91 complaints alleging that motor carriers had coerced or retaliated against drivers. FMCSA determined that 20 of these complaints had merit.[5] The average number of verified complaints for that 4-year period was therefore 68.25 per year [253 + 20/4 = 68.25].

Some unknown portion of the 253 complaints filed with OSHA during that period almost certainly dealt with coercion or similar actions. Even if all of them were coercion-related, this number—combined with the 20 substantiated complaints filed with the OIG—remains small compared to the total population of CMV drivers. Section 31105, however, applies only to employers (basically motor carriers) while this rule would also cover shippers, receivers, and transportation intermediaries. The Agency is unable to estimate the number of coercion allegations it may receive, whether triggered by actions of motor carriers or other entities made subject to this rule by MAP–21.

In view of the small number of coercion-related complaints filed with OSHA and DOT's OIG, the aggregate economic value to motor carriers of these coercion-related incidents is likely to be low. Therefore, the cost to carriers of eliminating those incidents—assuming the proposed rule has that effect—and incurring the higher costs of compliance, would also be low. We believe that the application of this rule to shippers, receivers, brokers, freight forwarders, and other transportation intermediaries will not significantly increase the number of coercion complaints, since drivers generally have more frequent and direct contacts with their employers than with these other parties. In addition, even though the rule applies to a larger population, FMCSA also notes that the rule should have a chilling effect on entities considering coercion.

The roughly 68 annual complaints estimated above is the only available estimate of coercion in the trucking industry now. This rule would be expected to reduce the amount of coercion that takes place, but there is no available measure of the effectiveness of the rule. The relatively low number of complaints suggests that the overall economic impact will be small, and less than the $100 million threshold of economic significance under E.O. 12866.

Benefits

If coercion creates situations where CMVs are operated in an unsafe manner, then there are consequences of safety and driver health risks. By forcing drivers to operate mechanically unsafe CMVs or drive beyond their allowed hours, coercion increases the risk of crashes. Reduction of these behaviors because of this rule would generate a safety benefit. Additionally, the operation of CMVs beyond HOS limits has been shown to have negative consequences for driver health. A reduction of this practice would create an improvement in driver health.

Costs

This rule, as an enforcement measure, would impose compliance costs on carriers and other business entities in the trucking industry. If drivers now operate CMVs in violation of hours of service rules, or if coercion had caused drivers with mechanical defects, carriers would potentially have to reorganize

[3] U.S. Department of Labor, Occupational Safety & Health Administration (OSHA), Whistleblower Protection Program: Investigative Data Fact Sheets. Available at *http://www.whistleblowers.gov/wb_data_FY05-12.pdf.*

[4] Ibid., Footnote 3.

[5] U.S. Department of Transportation, Office of the Inspector General (OIG). This averaged 23 complaints per year, (with 44 in 2010), which the OIG referred to FMCSA. FMCSA substantiated 20 complaints (22 percent) of violations of acute and critical regulations due to driver allegations of unlawful discrimination or discipline (*See* 29 CFR 1978.100 *et seq.*). Available at *http://www.oig.dot.gov/Hotline.*

their schedules or hire new drivers to operate in compliance. Maintenance and other costs might also increase as a result of this rule. Additionally, the entities that practice coercion would lose the economic benefit of that coercion. This economic benefit could be time-related (if drivers are coerced into driving when they should stop and rest, stop and wait for CMV maintenance, or drive a vehicle they are not qualified to operate rather than wait for a qualified driver).

Drivers alleging coercion will have to provide a written statement describing the incident along with evidence to support their charges. This total paperwork burden is difficult to estimate but is not likely to be very large. Similarly the Agency believes that the investigation of those claims deemed to have merit will not have a large cost.

If, as a result of this rule, shippers, receivers, and transportation intermediaries begin to inquire about drivers' available hours under the HOS rules when they had not previously done so, there may be additional costs to those parties that FMCSA has not calculated and cannot estimate. The Agency invites comments and solicits information on this question.

Summary

The Agency does not believe that the benefits and costs of this rule would create a large economic impact. The safety benefits and compliance costs are likely to be very small due to the small number of expected cases each year. Therefore, the Agency believes that the proposed rule will not be economically significant. FMCSA welcomes the submission of any relevant comments, data, or other materials. This proposed rule has been reviewed by the Office of Management and Budget (OMB).

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires Federal agencies to consider the effects of their regulatory actions on small business and other small entities and to minimize any significant economic impact. The term ''small entities'' comprises small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields, as well as governmental jurisdictions with populations of less than 50,000.[6] Accordingly, DOT policy requires an analysis of the impact of all regulations on small entities and mandates that agencies strive to lessen any adverse effects on these businesses.

Under the Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121, 110 Stat. 857), the proposed rule is not expected to have a significant economic impact on a substantial number of small entities. As indicated above, OSHA found merit in only 253 complaints filed over a 4-year period, or about 63 per year. Even if all of the complaints were classified as coercion-related, that number would be very small when compared to the size of the driver population and motor carrier industry.

The Small Business Administration (SBA) classifies businesses according to the average annual receipts. The SBA defines a ''small entity'' in the motor carrier industry [i.e., general freight truck transportation, subsector 484 of the North American Industry Classification System (NAICS)] as having revenues of less than $25.5 million[7] per firm. Likewise, transportation intermediaries (i.e., subsector 488 of NAICS) which include brokers and freight forwarders, are classified as small if their annual revenue is under $14 million.[8]

Table 1 presents a breakdown of FMCSA's revenue estimates for the populations in various categories. By SBA standards, the vast majority of all businesses in the motor carrier and related industries are ''small entities.'' Although general freight transportation arrangement firms fall under the $14 million threshold, there is an exception for ''non-vessel household goods forwarders.'' This exception stipulates that the revenue threshold, for this sub-set of freight forwarders in the trucking industry is $25.5 million. As indicated in the above, fewer than 70 coercion complaints per year have been filed with OSHA and FMCSA in the past few years. We have no reason to believe that number will increase significantly under the rule. In fact, the potential penalty for coercing a driver should have a deterrent effect. Even if the penalty assessed might have a ''significant economic impact'', the limited number of recent coercion complaints suggests that the penalty would not affect ''a substantial number of small entities'' given that there are nearly 500,000 firms in the industry that qualify as small entities.

This rule does not affect industry productivity by requiring new documentation, affecting labor productivity or availability, or increased expenditures on maintenance or new equipment. The fines that are the only impact can be avoided by not coercing drivers into violating existing regulations. Furthermore, by regulation, the Agency's fines are usually subject to a maximum financial penalty limit of 2 percent of a firm's gross revenue. For the vast majority of small firms, a fine at this level would not be ''significant'' in the sense that it would jeopardize the viability of the firm.

The table below excludes shippers and receivers subject to the prohibition on coercion, a group which is a large portion of the entire U.S. population, because anyone who sends or receives a package would be considered a shipper or receiver. However, compliance with its prohibition on coercion of drivers is not expected to have significant economic impact on many of them. Consequently, because they are not expected to be in a position to coerce a driver, I certify that the proposed action would not have a significant economic impact on a substantial number of small entities.

[6] Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) see National Archives at *http://www.archives.gov/federal-register/laws/regulatory-flexibility/601.html*.

[7] U.S. Small Business Administration Table of Small Business Size Standards matched to North American Industry Classification System Codes (NAICS), effective January, 2012. See NAIC subsector 484 (Truck Transportation) and 488 Support Activities for Transportation).

[8] The Small Business Administration increased the annual revenue small business threshold for passenger carriers from $7 million to $14 million in a final rule titled, ''Small Business Standards: Transportation and Warehousing (77 FR 10943, February 24, 2012).

[9] Includes interstate motor carriers and intrastate hazardous materials motor carriers.

[10] The results show that 99 percent of all carriers with recent activity have 148 PUs or fewer.

The SBA increased the annual revenue small business threshold for passenger carriers from $7 million to $14 million in a final rule titled, ''Small Business Standards: Transportation and Warehousing. (77 FR 10943, February 24, 2012). This based on a supposition that a passenger carrying CMV generates annual revenues of $150,000. The analysis concluded that passenger carriers with 93 PUs or fewer ($14 million/$150,000/PU) = 93.3 PUs.

[12] U.S. Department of Commerce, U.S. Census Bureau: 2007 Economic Census—Transportation and Warehousing Available at *https://www.census.gov/econ/industry/hierarchy/i488510.htm* for NAICS code 4885.

TABLE 1—TOTAL NUMBER OF ENTITIES AND DETERMINATION, 2012

Type of entity	Number	Determination
Motor carriers (property)	[9] 519,558	99% below $25.5 million.[10]
Motor carriers (passenger)	27,666	99% below $14 million.[11]
Freight forwarders	[12] 21,809	97% below $25.5 million.
Property brokers	21,565	99% below $25.5 million.

Source: Motor carrier property, passenger, and property broker numbers provided by FMCSA's, CMV facts sheet March 2013. Available at *http://www.fmcsa.dot.gov/documents/facts-research/CMV-Facts.pdf.* Freight Forwarder source in footnote below.

Assistance for Small Entities

In accordance with section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996, FMCSA wants to assist small entities in understanding this proposed rule so that they can better evaluate its effects on themselves and participate in the rulemaking initiative. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult the FMCSA point of contact, Mr. Charles Medalen, listed in the **FOR FURTHER INFORMATION CONTACT** section of this proposed rule.

Small businesses may send comments on the actions of Federal employees who enforce or otherwise determine compliance with Federal regulations to the SBA's 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 FMCSA, call 1–888–REG–FAIR (1–888–734–3247). DOT has a policy ensuring the rights of small entities to regulatory enforcement fairness and an explicit policy against retaliation for exercising these rights.

Unfunded Mandates Reform Act of 1995

This proposed rule would not impose an unfunded Federal mandate, as defined by the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1532, *et seq.*), that will result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $143.1 million (which is the value of $100 million in 2010 after adjusting for inflation) or more in any 1 year.

E.O. 13132 (Federalism)

A rulemaking has implications for Federalism under section 1(a) of E.O. 13132 if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on State or local governments. FMCSA analyzed this action in accordance with E.O. 13132. This proposed rule does not preempt or modify any provision of State law, impose substantial direct unreimbursed compliance costs on any State, or diminish the power of any State to enforce its own laws. FMCSA has determined that this proposal would not have substantial direct costs on or for States nor would it limit the policymaking discretion of States. Accordingly, this rulemaking does not have Federalism implications.

E.O. 12988 (Civil Justice Reform)

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

E.O. 13045 (Protection of Children)

E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, Apr. 23, 1997), requires agencies issuing ''economically significant'' rules, if the regulation also concerns an environmental health or safety risk that an agency has reason to believe may disproportionately affect children, to include an evaluation of the regulation's environmental health and safety effects on children. The Agency determined this proposed rule is not economically significant. Therefore, no analysis of the impacts on children is required. In any event, the Agency does not anticipate that this regulatory action could in any respect present an environmental or safety risk that could disproportionately affect children.

E.O. 12630 (Taking of Private Property)

FMCSA reviewed this proposed rule in accordance with E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights, and has determined it will not effect a taking of private property or otherwise have takings implications.

Privacy Impact Assessment

Section 522 of title I of division H of the Consolidated Appropriations Act, 2005, enacted December 8, 2004 (Pub. L. 108–447, 118 Stat. 2809, 3268, 5 U.S.C. 552a note), requires the Agency to conduct a Privacy Impact Assessment (PIA) of a regulation that will affect the privacy of individuals. In accordance with this Act, a privacy impact analysis is warranted to address the collection of personally identifiable information contemplated in the proposed Coercion rulemaking. The Agency submitted a Privacy Threshold Assessment analyzing the proposed collection of personal information to the Department of Transportation, Office of the Secretary's Privacy Office.

For the purposes of both transparency and efficiency, the privacy analysis will take the form of the DOT standard Privacy Impact Assessment (PIA) and will be published on the DOT Web site at *www.dot.gov/privacy* concurrently with the publication of the NPRM. The PIA will address the rulemaking, associated business processes contemplated in the proposed rule and any information known about the systems or existing systems to be implemented in support of the final rulemaking. The PIA will be reviewed, and revised as appropriate, to reflect the Final Rule and will be published not later than the date on which the Department initiates any of the activities contemplated in the Final Rule determined to have an impact on individuals' privacy and not later than the date on which the system (if any) supporting implementation of the Final Rule is updated.

Per the Privacy Act, FMCSA will publish a system of records notice (SORN) in the **Federal Register** not less than 30 days before the Agency is authorized to collect or use PII retrieved by unique identifier.

E.O. 12372 (Intergovernmental Review)

The regulations implementing E.O. 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this program.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 *et seq.*), Federal agencies must obtain approval from the OMB for each collection of information they conduct, sponsor, or require through regulations. There is no

information collection requirement with this proposed rule.

National Environmental Policy Act and Clean Air Act

FMCSA analyzed this proposed rule in accordance with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*). FMCSA conducted an environmental assessment and determined that the rule has the potential for minor environmental impacts. Based on the limited data FMCSA has concerning the extent of the CMV driver population, these impacts would be very small and FMCSA does not expect any significant impacts to the environment from the proposals in this rule. The environmental assessment has been placed in the rulemaking docket. FMCSA requests comments on this assessment.

In addition to the NEPA requirements to examine impacts on air quality, the Clean Air Act (CAA) as amended (42 U.S.C. 7401 *et seq.*) also requires FMCSA to analyze the potential impact of its actions on air quality and to ensure that FMCSA actions conform to State and local air quality implementation plans. The additional contributions to air emissions from any of the alternatives are expected to fall below the CAA *de minimis* thresholds as per 40 CFR 93.153 and are, therefore, not expected to be subject to the Environmental Protection Agency's General Conformity Rule (40 CFR parts 51 and 93).

E.O. 12898 (Environmental Justice)

FMCSA evaluated the environmental effects of this proposed rule in accordance with Executive Order 12898 and determined that there are no environmental justice issues associated with its provisions nor any collective environmental impact resulting from its promulgation. Environmental justice issues would be raised if there were ''disproportionate'' and ''high and adverse impact'' on minority or low-income populations. None of the alternatives analyzed in the Agency's EA, discussed under National Environmental Policy Act, would result in high and adverse environmental impacts.

E.O. 13211 (Energy Supply, Distribution, or Use)

FMCSA has analyzed this proposed rule under E.O. 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. The Agency has determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, it does not require a Statement of Energy Effects under E.O. 13211.

E.O. 13175 (Indian Tribal Governments)

This proposed rule does not have tribal implications under E.O. 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.

National Technology Transfer and Advancement Act (Technical Standards)

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through OMB, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards (*e.g.,* specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) are standards that are developed or adopted by voluntary consensus standards bodies. This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

List of Subjects

49 CFR Part 385

Administrative practices and procedure, Highway safety, Motor carriers, Motor vehicle safety, Reporting and recordkeeping requirements.

49 CFR Part 386

Administrative practice and procedures, Brokers, Freight forwarders, Hazardous materials transportation, Highway safety, Motor carriers, Motor vehicle safety, Penalties.

49 CFR Part 390

Highway safety, Intermodal transportation, Motor carriers, Motor vehicle safety, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, FMCSA proposes to amend parts 385, 386 and 390 in 49 CFR chapter III, subchapter B, as follows:

PART 385—SAFETY FITNESS PROCEDURES

■ 1. The authority citation for part 385 is amended to read as follows:

AUTHORITY: 49 U.S.C. 113, 504, 521(b), 5105(e), 5109, 13901–13905, 31133, 31135, 31136, 31137(a), 31144, 31148, and 31502; Sec. 113(a), Pub. L. 103–311; Sec. 408, Pub. L. 104–88; Sec. 350, Pub. L. 107–87; and 49 CFR 1.81, 1.81a and 1.87.

■ 2. Amend the list of acute and critical regulations in section VII of Appendix B to part 385 by adding two entries for § 390.6 in numerical order to read as follows:

Appendix B to Part 385—Explanation of Safety Rating Process

* * * * *

VII. List of Acute and Critical Regulations

* * * * *

§ 390.6(a)(1) Coercion of a driver by a motor carrier, shipper, receiver, or transportation intermediary to operate a commercial motor vehicle in violation of 49 CFR parts 171–173, 177–180, 380–383 or 390–399, or §§ 385.105(b), 385.111(a), (c)(1), or (g), 385.415, or 385.421 (acute).

§ 390.6(a)(2) Coercion of a driver by the operator of a commercial motor vehicle to operate that vehicle in violation of 49 CFR parts 356, 360, or 365–379 (acute).

* * * * *

PART 386—RULES OF PRACTICE FOR FMCSA PROCEEDINGS

■ 3. The authority citation for part 386 continues to read as follows:

Authority: 49 U.S.C. 113, chapters 5, 51, 131–141, 145–149, 311, 313, and 315; Sec. 204, Pub. L. 104–88, 109 Stat. 803, 941 (49 U.S.C. 701 note); Sec. 217, Pub. L. 105–159, 113 Stat. 1748, 1767; Sec. 206, Pub. L. 106–159, 113 Stat.1763; subtitle B, title IV of Pub. L. 109–59; and 49 CFR 1.81 and 1.87.

■ 4. Revise the heading of part 386 as set forth above.

■ 5. Amend § 386.1 by revising paragraph (a) and adding paragraph (c) to read as follows:

§ 386.1 Scope of the rules in this part.

(a) Except as indicated in paragraph (c) of this section, the rules in this part govern proceedings before the Assistant Administrator, who also acts as the Chief Safety Officer of the Federal Motor Carrier Safety Administration (FMCSA), under applicable provisions of the Federal Motor Carrier Safety Regulations (FMCSRs) (49 CFR parts 350–399), including the commercial regulations (49 CFR parts 360–379), and the Hazardous Materials Regulations (49 CFR parts 171–180).

* * * * *

(c) The rules in § 386.12(e) govern the filing by a driver and the handling by

the appropriate Division Administrator of complaints of coercion in violation of § 390.6 of this subchapter.

■ 6. Amend § 386.12 as follows:

■ a. Revise the section heading;

■ b. Add and reserve paragraph (d); and

■ c. Add a new paragraph (e).

§ 386.12 Complaint of substantial violation.

* * * * *

(d) [Reserved]

(e) *Complaint of coercion.* (1) A driver alleging a violation of § 390.6(a)(1) or (2) of this subchapter must file a written complaint of coercion within 60 days after the event with the FMCSA Division Administrator for the State where the incident occurred or where the party alleged to have coerced the driver has its principal place of business. Allegations brought to the attention of other officials in the Agency through letter, email, social media, phone call, or other means will be referred to the Division Administrator for the principal place of business of the entity alleged to have coerced the driver. Delays involved in transferring the allegation to the appropriate Division Administrator do not stay the 60-day period for filing a written complaint. Each complaint must be signed by the driver and must contain:

(i) The driver's name, address, and telephone number;

(ii) The name and address of the person allegedly coercing the driver;

(iii) The specific provisions of the regulations that the driver alleges he or she was coerced to violate; and

(iv) A concise but complete statement of the facts relied upon to substantiate each allegation of coercion, including the date of each alleged violation.

(2) *Action on complaint of coercion.* Upon the filing of a complaint of coercion under paragraph (e)(1) of this section, the appropriate Division Administrator shall determine whether the complaint is non-frivolous and meets the requirements of paragraph (e)(1) of this section. If the Division Administrator determines that the complaint is non-frivolous and meets the requirements of paragraph (e)(1) of this section, he/she shall investigate the complaint. The complaining driver shall be timely notified of findings resulting from such investigation. The Division Administrator shall not be required to conduct separate investigations of duplicative complaints. If the Division Administrator determines the complaint is frivolous or does not meet the requirements of paragraph (e)(1) of this section, he/she shall dismiss the complaint and notify the driver in writing of the reasons for such dismissal. If after investigation the Division Administrator determines that a violation has occurred, the Division Administrator may issue a Notice of Violation under § 386.11(b) or a Notice of Claim under § 386.11(c).

(c) Because prosecution of coercion in violation of § 390.6 of this subchapter will require disclosure of the driver's identity, the Agency shall take every practical means within its authority to ensure that the driver is not subject to harassment, intimidation, disciplinary action, discrimination, or financial loss as a result of such disclosure.

PART 390—FEDERAL MOTOR CARRIER SAFETY REGULATIONS; GENERAL

■ 7. Revise the authority citation for part 390 to read as follows:

Authority: 49 U.S.C. 504, 508, 31132, 31133, 31136, 31144, 31151, 31502; sec. 114, Pub. L. 103–311, 108 Stat. 1673, 1677–1678; sec. 212, 217, 229, Pub. L. 106–159, 113 Stat. 1748, 1766, 1767; sec. 229, Pub. L. 106–159 (as transferred by sec. 4114 and amended by secs. 4130–4132, Pub. L. 109–59, 119 Stat. 1144, 1726, 1743–1744), sec. 4136, Pub. L. 109–59, 119 Stat. 114, 1745; and 49 CFR 1.81, 1.81a and 1.87.

■ 8. Revise § 390.3(a) to read as follows:

§ 390.3 General applicability.

(a)(1) The rules in subchapter B of this chapter are applicable to all employers, employees, and commercial motor vehicles, which transport property or passengers in interstate commerce.

(2) The rules in 49 CFR 386.12(e) and 390.6 prohibiting the coercion of drivers of commercial motor vehicles operating in interstate commerce:

(i) To violate certain safety regulations are applicable to all motor carriers, shippers, receivers, and transportation intermediaries; and

(ii) To violate certain commercial regulations are applicable to all operators of commercial motor vehicles.

* * * * *

■ 9. Amend § 390.5 by adding definitions of ''Coerce or Coercion,'' ''Receiver or cosignee,'' ''Shipper,'' and ''Transportation intermediary,'' in alphabetical order, to read as follows:

§ 390.5 Definitions.

* * * * *

Coerce or *Coercion* means either—

(1) A threat by a motor carrier, shipper, receiver, or transportation intermediary, or their respective agents, officers or representatives, to withhold, or the actual withholding of, current or future business, employment, or work opportunities from a driver for objecting to the operation of a commercial motor vehicle under circumstances which the motor carrier, shipper, receiver, or transportation intermediary, or their respective agents, officers, or representatives, knew, or should have known, would require the driver to violate 49 CFR parts 171–173, 177–180, 380–383, or 390–399, or §§ 385.105(b), 385.111(a), (c)(1), or (g), 385.415, or 385.421; or

(2) A threat by a motor carrier, or its agents, officers or representatives, to withhold, or the actual withholding of, current or future business, employment, or work opportunities from a driver for objecting to the operation of a commercial motor vehicle, or to taking other action or to the failure to act, under circumstances which the motor carrier, or its agents, officers or representatives knew, or should have known would require the driver to violate 49 CFR parts 356, 360, or 365–379.

* * * * *

Receiver or *consignee* means a person who takes delivery from a motor carrier or driver of a commercial motor vehicle of property transported in interstate commerce or hazardous materials transported in interstate or intrastate commerce.

* * * * *

Shipper means a person who tenders property to a motor carrier or driver of a commercial motor vehicle for transportation in interstate commerce, or who tenders hazardous materials to a motor carrier or driver of a commercial motor vehicle for transportation in interstate or intrastate commerce.

* * * * *

Transportation intermediary means a person who arranges the transportation of property or passengers by commercial motor vehicle in interstate commerce, or who arranges the transportation of hazardous materials by commercial motor vehicle in interstate or intrastate commerce, including but not limited to brokers and freight forwarders.

* * * * *

■ 10. Add a new § 390.6 to read as follows:

§ 390.6 Coercion prohibited.

(a) *Prohibition.* (1) A motor carrier, shipper, receiver, or transportation intermediary, including their respective agents, officers, or representatives, may not coerce a driver of a commercial motor vehicle to operate such vehicle in violation of 49 CFR parts 171–173, 177–180, 380–383 or 390–399, or §§ 385.105(b), 385.111(a), (c)(1), or (g), 385.415, or 385.421;

(2) A motor carrier or its agents, officers, or representatives, may not coerce a driver of a commercial motor

vehicle to operate such vehicle in violation of 49 CFR parts 356, 360, or 365–379.

(b) *Complaint process.* (1) A driver who believes he or she was coerced to violate a regulation described in paragraph (a)(1) or (2) of this section may file a written complaint under § 386.12(e) of this subchapter.

(2) A complaint under paragraph (b)(1) of this section shall describe the specific action that the driver claims constitutes coercion and identify the specific regulation the driver was coerced to violate.

(3) A complaint under paragraph (b)(1) of this section may include any supporting evidence that will assist the Division Administrator in determining the merits of the complaint.

Issued under the authority of delegation in 49 CFR 1.87: May 5, 2014.

Anne S. Ferro,

Administrator.

[FR Doc. 2014–10722 Filed 5–12–14; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 140403312–4312–01]

RIN 0648–BE17

Fisheries of the Northeastern United States; Spiny Dogfish Fishery; Proposed 2014–2015 Spiny Dogfish Specifications

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

ACTION: Proposed specifications; request for comments.

SUMMARY: This rule proposes catch limits, commercial quotas, and possession limits for the spiny dogfish fishery for the 2014–2015 fishing years. The proposed action was developed by the Mid-Atlantic and New England Fishery Management Councils pursuant to the fishery specification requirements of the Spiny Dogfish Fishery Management Plan. These management measures are supported by the best available scientific information and reflect recent increases in spiny dogfish biomass, and are expected to result in positive economic impacts for the spiny dogfish fishery while maintaining the conservation objectives of the Spiny Dogfish Fishery Management Plan.

DATES: Comments must be received on or before June 12, 2014.

ADDRESSES: Copies of the amendment, including the Environmental Assessment and Initial Regulatory Flexibility Analysis (EA/IRFA) and other supporting documents for the action are available from Dr. Christopher M. Moore, Executive Director, Mid-Atlantic Fishery Management Council, Suite 201, 800 N. State Street, Dover, DE 19901. The amendment is also accessible via the Internet at: *http://www.nero.noaa.gov.*

You may submit comments, identified by NOAA–NMFS–2014–0053, by any one of the following methods:

• *Electronic Submissions:* Submit all electronic public comments via the Federal e-Rulemaking portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2014-0053,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.

• *Mail:* NMFS, Greater Atlantic Regional Fisheries Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope ''Comments on Spiny Dogfish Specifications.''

Instructions: Comments must be submitted by one of the above methods to ensure that the comments are received, documented, and considered by NMFS. 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. 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) submitted voluntarily by the sender will be publicly accessible. Do not submit confidential business information, or otherwise sensitive or protected information. 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 or Excel, WordPerfect, or Adobe PDF formats only.

FOR FURTHER INFORMATION CONTACT: Tobey Curtis, Fishery Policy Analyst, (978) 281–9273.

SUPPLEMENTARY INFORMATION:

Background

The Atlantic spiny dogfish (*Squalus acanthias*) fishery is jointly managed by the New England and Mid-Atlantic Fishery Management Councils. The Atlantic States Marine Fisheries Commission also manages the spiny dogfish fishery in state waters from Maine to North Carolina through an interstate fishery management plan (FMP). The Federal Spiny Dogfish FMP was implemented in 2000, when spiny dogfish were determined to be overfished. The spiny dogfish stock was declared to be successfully rebuilt in 2010, and it continues to be above its target biomass.

The regulations implementing the FMP at 50 CFR part 648, subpart L, outline the process for specifying an annual catch limit (ACL), commercial quota, possession limit, and other management measures for a period of 1–5 years. The Mid-Atlantic Council's Scientific and Statistical Committee (SSC) reviews the best available information on the status of the spiny dogfish population and recommends acceptable biological catch (ABC) levels. This recommendation is then used as the basis for catch limits and other management measures developed by the Council's Spiny Dogfish Monitoring Committee and Joint Spiny Dogfish Committee (which includes members of both Councils). The Councils then review the recommendations of the committees and make their specification recommendations to NMFS. NMFS reviews those recommendations, and may modify them if necessary to ensure that they are consistent with the FMP and other applicable law. NMFS then publishes proposed measures for public comment.

NMFS implemented specifications for the spiny dogfish fishery for the 2013–2015 fishing years on May 1, 2013 (78 FR 25862). However, due to updated scientific information on stock status (see below), the Councils are recommending revised specifications for the 2014 and 2015 fishing years.

Spiny Dogfish Stock Status Update

In September 2013, the NMFS Northeast Fisheries Science Center updated the spiny dogfish stock status, using the most recent catch and biomass estimates from the 2013 spring trawl survey. Updated estimates indicate that the female spawning stock biomass (SSB) for 2013 was 466 million lb (211,374 mt), about 33 percent above the target maximum sustainable yield (MSY) biomass proxy (SSB_{MAX}) of 351 million lb (159,288 mt). The 2012 fishing mortality rate (F) estimate for the stock was 0.149, well below the overfishing threshold (F_{MSY}) of 0.2439. Therefore, the spiny dogfish stock is not currently overfished or experiencing overfishing. While stock size and recruitment have increased in recent years, poor pup production from 1997–2003 is projected to result in declines in

SSB from 2014–2020, when the pups from the 1997–2003 years recruit to the spawning stock.

The SSC reviewed this information and recommended increasing the ABC levels for spiny dogfish for the 2014–2015 fishing years. The ABC recommendations were based on an overfishing level of median catch at the F_{MSY} proxy, and the Mid-Atlantic Council's risk policy for a Level 3 assessment (40-percent probability of overfishing). The resulting new spiny dogfish ABCs are 60.839 million lb (27,596 mt) (increased from 55.455 million lb (25,154 mt)) for 2014, and 62.413 million lb (28,310 mt) (increased from 55.241 million lb (25,057 mt)) for 2015.

Council Recommendations

The Councils' Spiny Dogfish Monitoring Committee and the Commission's Spiny Dogfish Technical Committee met in September 2013 to determine the resulting ACLs and quotas following the FMP's process. To calculate the commercial quota for each year, deductions were made from the ABC to account for Canadian landings (143,000 lb (65 mt)), U.S. discards (11.605 million lb (5,264 mt)), and U.S. recreational harvest (53,000 lb (24 mt)). For 2014, the revised ACL would be 60.695 million lb (27,531 mt), and the commercial quota would be 49.037 million lb (22,243 mt) (+20 percent from 2013), before potential deductions for the Research Set-Aside (RSA) program (pending the approval of Amendment 3 to the Spiny Dogfish FMP; 79 FR 19861; April 10, 2014). A total of 250,000 lb (113 mt) of spiny dogfish RSA has been preliminarily approved for the 2014 fishing year. For 2015, the revised ACL would be 62.270 million lb (28,245 mt), and the commercial quota would be 50.612 million lb (22,957 mt) (+24 percent from 2013), before potential RSA deductions.

The Councils recommended different spiny dogfish trip limits for 2014 and 2015. The Mid-Atlantic Council recommended the status quo trip limit (4,000 lb (1,814 kg)), in acknowledgment of recent market demand and processing capacity issues, and a desire to control the rate of landings across the year. The spiny dogfish fishery is projected to land only about 40 percent of its 2013 commercial quota due to these market constraints. The New England Council recommended no limits on the possession of spiny dogfish, with the objective of allowing the fishery to harvest as much spiny dogfish as possible under the increased quotas. We do not know at this time what trip limits the Commission may implement for state waters.

Under the FMP, when the two Councils recommend different specification measures, NMFS has the discretion to implement any measure not specifically rejected by both Councils. In this case, NMFS may implement whatever trip limit is deemed the most appropriate based upon the advice of the Councils and public comments. In this rule, NMFS is proposing the New England Council's recommendation of unlimited possession of spiny dogfish, but is specifically requesting public input on these alternatives to help determine what trip limit is really preferred.

As currently specified in the FMP, quota period 1 (May 1 through October 31) would be allocated 57.9 percent of the commercial quota, and quota period 2 (November 1 through April 30) would be allocated 42.1 percent of the commercial quota. However, the Councils have approved, and NMFS has proposed to implement, Amendment 3 to the FMP, which would eliminate the seasonal allocation of the commercial quota (79 FR 19861; April 10, 2014). Upon implementation of Amendment 3, if approved, the Federal commercial quota and trip limit would only be specified on an annual, coastwide basis.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Fishery Conservation and Management Act, the NMFS Assistant Administrator has made a preliminary determination that this proposed rule is consistent with the Spiny Dogfish FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for the purpose of E.O. 12866.

The Councils prepared an IRFA, as required by section 603 of the Regulatory Flexibility Act. The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained at the beginning of this section of the preamble and in the **SUMMARY** of this proposed rule. A summary of the IRFA follows. A copy of this analysis is available from the Councils (see **ADDRESSES**).

This action does not introduce any new reporting, recordkeeping, or other compliance requirements. This proposed rule does not duplicate, overlap, or conflict with other Federal rules.

Description and Estimate of Number of Small Entities to Which the Rule Would Apply

This rule would impact fishing vessels, including commercial fishing entities that hold spiny dogfish permits. In 2012, 2,666 vessels held spiny dogfish permits. However, not all of those vessels are active participants in the fishery; only 489 vessels landed spiny dogfish in 2012. Additionally, if two or more vessels have identical owners, these vessels are considered to be part of the same firm. When permit ownership data is considered, in 2012, 1,976 fishing firms held at least one spiny dogfish permit. According to the Small Business Administration (SBA), firms are classified as finfish or shellfish firms based on the activity from which they derive the most revenue. Using the $5M cutoff for shellfish firms (NAICS 114112) and the $19M cutoff for finfish firms (NAICS 114111), there are 1,953 directly regulated small entities and 23 directly regulated large entities. There are 488 active fishing firms, of which 482 are small entities and 6 are large entities. On average, for small entities, spiny dogfish is responsible for a small fraction of landings, and active participants derive a small share of gross receipts from the spiny dogfish fishery. While all 1,953 directly regulated small entities would be affected by these specifications, many of these small entities do not currently participate in this fishery and would be likely to experience only negligible economic impacts, if any.

Economic Impacts of the Proposed Action Compared to Significant Non-Selected Alternatives

Three management alternatives were analyzed for each year, 2014 and 2015. As described in the EA for this action (see **ADDRESSES**), Alternative 1 represents the Mid-Atlantic Council's recommended revised quotas and trip limits, Alternative 2 represents the New England Council's recommended revised quotas and trip limits, and Alternative 3 represents the no action quotas and trip limits for 2014 and 2015. While both Councils recommended the same revised ACLs and commercial quotas in Alternatives 1 and 2, as described above, the Mid-Atlantic Council recommended a 4,000-lb (1,814-kg) trip limit and the New England Council recommended an unlimited trip limit. The no action alternative (Alternative 3) includes lower ACLs and commercial quotas than the other two alternatives, and maintains a 4,000-lb (1,814-kg) trip limit, reflecting the final 2013–2015

spiny dogfish specifications implemented by NMFS on May 1, 2013 (78 FR 25862). Alternative 2 (the New England Council's recommendation) is the preferred alternative proposed in this rule.

According to the analysis in the EA (see **ADDRESSES**), all of the alternatives under consideration in this action are expected to result in positive economic impacts. Alternatives 1 and 2 would increase the maximum potential landings for the spiny dogfish fishery during 2014 and 2015, as compared to Alternative 3. However, the commercial quotas in all three alternatives are higher than realized spiny dogfish landings during recent fishing years. In the 2013 fishing year, which ended on April 30, 2014, the spiny dogfish fishery landed only about 40 percent of its 40.842-million lb (18,526-mt) quota (refer to landings data at *www.nero.noaa.gov*), largely due to market issues and declines in demand in the primary export markets. Total spiny dogfish revenue from the 2012 fishing year was reported as $5.3 million, reflecting an average price of $0.20 per lb. The commercial quotas in Alternatives 1 and 2, if fully utilized, would correspond to approximately $9.9 million in potential revenue, whereas, the lower commercial quota in Alternative 3 would correspond to approximately $7.9 million in potential revenue.

Trip limits influence the rate of landings across the fishing year, and are not expected to result in direct positive or negative economic impacts on the fishery as a whole. While different trip limit alternatives may affect trip-level revenues, and have variable, short-term effects on price, total spiny dogfish revenues will still be largely influenced by the quota. While the New England Council's recommendation for unlimited possession may help the fishery achieve more of its allowable landings, continuing processing and market demand constraints may limit the ability of the fishery to accomplish this. Furthermore, the Commission and individual states may implement various spiny dogfish trip limits in their state waters (current trip limits range from 4,000 lb (1,814 kg) to 10,000 lb (4,536 kg) per trip), which would effectively limit the allowable possession of spiny dogfish by Federal permit holders.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: May 6, 2014.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS proposes to amend 50 CFR part 648 as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

■ 1. The authority citation for part 648 continues to read as follows:

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

■ 2. In § 648.235, revise the introductory text to paragraphs (a) and (b), and revise paragraphs (a)(1) and (b)(1) to read as follows:

§ 648.235 Spiny dogfish possession and landing restrictions.

(a) *Quota period 1.* From May 1 through October 31, vessels issued a valid Federal spiny dogfish permit specified under § 648.4(a)(11) may:

(1) Possess an unlimited amount of spiny dogfish per trip; and

* * * * *

(b) *Quota period 2.* From November 1 through April 30, vessels issued a valid Federal spiny dogfish permit specified under § 648.4(a)(11) may:

(1) Possess an unlimited amount of spiny dogfish per trip; and

* * * * *

[FR Doc. 2014–11049 Filed 5–12–14; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register

Vol. 79, No. 92

Tuesday, May 13, 2014

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

Animal and Plant Health Inspection Service

[Docket No. APHIS–2013–0097]

Notice of Availability of a Draft Framework for Implementing the United States-Canada Foreign Animal Disease Zoning Arrangement

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of availability and request for comments.

SUMMARY: The Animal and Plant Health Inspection Service is making available for public comment a draft framework for implementing and maintaining a foreign animal disease zoning arrangement between the United States and Canada. The draft framework provides an operational plan for the two countries to recognize each other's decisions to control a highly contagious foreign animal disease outbreak through zoning. The draft framework also establishes a structure for maintaining the arrangement over time and strategies for engaging governmental and non-governmental stakeholders in any actions taken under the arrangement, including planning and preparedness. This zoning arrangement will facilitate continued trade between disease-free areas of the United States and Canada while safeguarding animal health in both countries.

DATES: We will consider all comments that we receive on or before July 14, 2014.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!documentDetail;D=APHIS-2013-0097-0001.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2013–0097, 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 *http://www.regulations.gov/#!docketDetail;D=APHIS-2013-0097* or in our reading room, which is located in room 1141 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. Kelly Rhodes, Regionalization Evaluation Services, National Import Export Services, VS, APHIS, USDA, 4700 River Road, Unit 38, Riverdale, MD 20737–1231; *kelly.rhodes@aphis.usda.gov*; (301) 851–3315.

SUPPLEMENTARY INFORMATION:

Background

In October 2012, the United States Department of Agriculture (USDA) and the Canadian Food Inspection Agency (CFIA) jointly agreed to establish a foreign animal disease (FAD) zoning arrangement under the U.S.-Canada Regulatory Cooperation Council. The arrangement lays out the basic parameters by which the two countries intend to recognize each other's decisions to control highly contagious FAD outbreaks through zoning, that is, determining and specifying a particular area in a portion of the country wherein a quarantine should be established to control a contagious FAD outbreak. The arrangement is based on reciprocal evaluations of veterinary infrastructure and emergency response capacity which concluded that each country can effectively use zoning to control an FAD outbreak. This notice makes available for public comment a draft framework that provides guidance for the USDA's Animal and Plant Health Inspection Service (APHIS) and CFIA to implement and maintain the zoning arrangement.

The United States and Canada both have response plans for highly contagious FAD outbreaks in place that are based on internationally accepted zoning principles. The plans call for establishing an area of control that consists of a central infected zone surrounded by one or more additional zones. The infected zone is the focus of disease eradication efforts, while the entire area of control is subject to surveillance for the disease agent and movement restrictions on animals and other commodities that could transmit the agent. The affected country may choose to modify or redefine the boundaries of an area of control during the course of an outbreak following procedures outlined in the draft framework.

The territory outside of an area of control is considered free of the disease. The claim to freedom is largely substantiated by demonstrating, through epidemiological investigation, movement tracing, and surveillance that the outbreak is contained within the area of control. The affected country may also choose to increase active or passive surveillance for the disease agent in the disease-free zone.

Under the draft framework, each country would notify the other of a confirmed FAD detection in domestic livestock within its territory while in the process of establishing an area of control. The unaffected (partner) country may initially restrict the importation of commodities that could transmit the disease from the affected country. The extent of the restrictions would depend on the disease, the magnitude of the outbreak, and other epidemiological factors.

The affected country would apply to the partner country for recognition of an established area of control, following procedures outlined in the draft framework. Once this recognition occurs, trade between disease-free zones could resume as normal, with few restrictions. The partner country may impose additional import restrictions if the disease is detected outside of an area of control during the response period.

The draft framework outlines procedures for a representative of the partner country to embed in and monitor the progress of the outbreak response. It also contains contingencies to address the rare instances when a widespread, multi-focal, or rapidly progressing outbreak may temporarily overwhelm the resources of the affected country and negatively impact its ability to contain the disease agent through zoning.

The draft framework further establishes a Federal-level governance structure designed to preserve the concept and intent of the zoning

arrangement and promote the engagement and active participation of stakeholders in its implementation. It also outlines a strategy for APHIS and CFIA to work with other Federal, State, provincial, and non-governmental stakeholders to develop the means necessary to facilitate zoning recognition during an outbreak and minimize cross-border trade disruptions.

The draft framework may be viewed on the Regulations.gov Web site 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 request paper copies of the document by calling or writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. Please refer to the title of this document when requesting copies.

APHIS will consider all comments we receive on the FAD zoning arrangement draft framework. Comments on the framework that address disease risk, import restrictions, establishment of areas of control, operational procedures, and communications with affected stakeholders would be particularly useful as we continue to develop the framework.

Done in Washington, DC, this 7th day of May 2014.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2014–10998 Filed 5–12–14; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Forest Service

Information Collection; Pesticide-Use Proposal

AGENCY: Forest Service, USDA.

ACTION: Notice; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Forest Service is seeking comments from all interested individuals and organizations on the new information collection, Pesticide-Use Proposal.

DATES: Comments must be received in writing on or before July 14, 2014 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

ADDRESSES: Comments concerning this notice should be addressed to Stephen A. Covell, Mail Stop 1110, USDA Forest Service, Forest Health Protection, 1400 Independence Avenue SW., Washington, DC 20250.

Comments also may be submitted by email to *scovell@fs.fed.us.*

Comments submitted in response to this notice may be made available to the public through relevant Web sites and upon request. For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information or proprietary information. If you send an email comment, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. Please note that responses to this public comment request containing any routine notice about the confidentiality of the communication will be treated as public comments that may be made available to the public notwithstanding the inclusion of the routine notice.

The public may inspect the draft supporting statement and/or comments received at 201 14th Street SW., Washington, DC 20250 during normal business hours. Visitors are encouraged to call ahead to 703–605–5342 to facilitate entry to the building. The public may request an electronic copy of the draft supporting statement and/or any comments received be sent via return email. Requests should be emailed to *scovell@fs.fed.us.*

FOR FURTHER INFORMATION CONTACT: Mr. Stephen A. Covell, State and Private Forestry, Forest Health Protection, telephone 703–605–5342, email *scovell@fs.fed.us.* Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 twenty-four hours a day, every day of the year, including holidays.

SUPPLEMENTARY INFORMATION:

Title: Pesticide-Use Proposal.

OMB Number: 0596–NEW.

Type of Request: New.

Abstract: USDA Forest Service (FS) has Federal land stewardship responsibilities for approximately 193 million acres. FS land management responsibilities require use of integrated pest management, which in certain circumstances includes use of pesticides. FS currently uses form FS–2100–2, Pesticide-Use Proposal (PUP) internally to collect and review pesticide-applications intended to control pests of grasslands and forests under its administrative responsibility (under FSM 2150, and FSH 2109.14). FS anticipates requests from outside entities for application of pesticides upon FS-administered lands within rights-of-way easements, permitted lands, and under similar circumstances. The FS proposes to use the PUP form to collect pesticide project information from those outside entities to facilitate authorization of selected activities. Completion of the PUP form includes identification of pests to be controlled, pesticide to be applied, and other regulatory compliance information such as use of certified applicators. Because diverse pesticide-use projects are designed for local conditions, it is appropriate for the PUP form to be used to ensure that essential details are uniformly assembled for review. Proposals will be evaluated by FS pesticide use coordinators and other administrative personnel to safeguard human health and ecological protection consistent with FS land use management programs. Form and instructions will be posted on a FS Web site for ready public availability.

Affected Public: Individuals and Households, Businesses and Organizations, and State, Local or Tribal Governments responsible for vegetation management along rights-of-way across lands administered by the Forest Service.

Estimate of Burden per response: 12 hours.

Estimated Annual Number of Respondents: 36.

Estimated Annual Number of Responses: 50.

Estimated Total Annual Burden on Respondents: 600 hours.

Comment is Invited: Comment is invited on: (1) Whether this collection of information is necessary for the stated purposes and the proper performance of the functions of the agency, including whether the information will have practical or scientific utility; (2) the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments received in response to this notice, including names and addresses when provided, will be a matter of public record. Comments will be summarized and included in the submission request toward Office of Management and Budget approval.

Dated: May 7, 2014.

James Hubbard,

Deputy Chief, State and Private Forestry.

[FR Doc. 2014–10938 Filed 5–12–14; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Ravalli County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Ravalli County Resource Advisory Committee will meet in Hamilton, MT. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (Pub. L. 110–343) (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with the Title II of the Act. The meeting is open to the public. The purpose of the meeting is to provide information regarding the monitoring of RAC projects.

DATES: The meeting will be held May 27, 2014 6:30 p.m.

ADDRESSES: The meeting will be held at the Bitteroot National Forest Supervisor's Office located at 1801 N. 1st, Hamilton, MT. Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at the Bitteroot National Forest Supervisor's Office. Please call ahead to 406–363–7100 to facilitate entry into the building and to view comments.

FOR FURTHER INFORMATION CONTACT: Dan Ritter, Acting Forest Supervisor or Joni Lubke, Executive Assistant at 406–363–7100.

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday. Please make requests in advance for sign language interpreting, assistive listening devices or other reasonable accomodation for access to the facility or procedings by contacting the person listed **FOR FURTHER INFORMATION.**

SUPPLEMENTARY INFORMATION: The following business will be conducted: Bat monitoring project update and review of final project funding allocations. Contact Joni Lubke at 406–363–7100 for a full agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before the meeting. Individuals wishing to make an oral statement should request in writing by May 23, 2014 to be scheduled on the agenda. Written comments and requests for time for oral comments must be sent to Joni Lubke at 1801 N. 1st, Hamilton, MT 59840 or by email to *jmlubke@fs.fed.us* or via facsimile to 406–363–7159. A summary of the meeting will be posted at *https://fsplaces.fs.fed.us/fsfiles/unit/wo/secure_rural_schools.nsf/Web_Agendas?OpenView&Count=1000&RestrictToCategory=Ravalli+County* within 21 days of the meeting.

Dated: April 30, 2014.

Tod Mckay,

Acting Forest Supervisor.

[FR Doc. 2014–10915 Filed 5–12–14; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Fishlake Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meetings.

SUMMARY: The Fishlake Resource Advisory Committee (RAC) will meet in Richfield, Utah. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (Pub. L. 110–343) (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act. The meetings are open to the public. The purpose of the meetings is to welcome new and returning members, review roles and responsibilties, elect a chairperson and review and recommend projects proposed for funding.

DATES: The meetings will begin at 6:00 p.m. on the following dates:

- June 11, 2014
- June 19, 2014

All RAC meetings are subject to cancellation. For status of meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: The meetings will be held at the Sevier County Administration Building, Room 46B, 250 North Main, Richfield, Utah.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at the Fishlake National Forest (NF) Supervisor's Office. Please call ahead to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: John Zapell, Designated Federal Officer, by phone at 435–896–1070 or via email at *jzapell@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday. Please make requests in advance for sign language interpreting, assistive listening devices or other reasonable accommodation for access to the facility or proceedings by contacting the person listed above.

SUPPLEMENTARY INFORMATION: Additional RAC information, including the meeting agenda and the meeting summary/minutes can be found at the following Web site: *https://fsplaces.fs.fed.us/fsfiles/unit/wo/secure_rural_schools.nsf/RAC/AA113CC501D12647882575BD006DF2AA?OpenDocument.* The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing to be to be scheduled on the agenda five days prior to the meeting. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time for oral comments must be sent to John Zapell, Designated Federal Officer, Fishlake NF Supervisor's Office, 115 East 900 North, Richfield, Utah 84701; or by email to *jzapell@fs.fed.us,* or via facsimile to 435–896–9347.

Meeting Accommodations: If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices or other reasonable accommodation for access to the facility or proceedings by contacting the person listed in the section titled **FOR FURTHER INFORMATION CONTACT**. All reasonable accommodation requests are managed on a case by case basis.

Dated: May 5, 2014.

Allen Rowley,

Forest Supervisor.

[FR Doc. 2014–10916 Filed 5–12–14; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF COMMERCE

[Docket No. 140421355–4355–01]

Privacy Act of 1974; New System of Records

AGENCY: Office of the Chief Financial Officer/Assistant Secretary for Administration, BusinessUSA, Office of the Secretary, Department of Commerce.

ACTION: Notice of a New Privacy Act System of Records; COMMERCE/DEPARTMENT–24, BusinessUSA Intellectual Hosting Service Application and Satisfaction Survey Records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended, Title 5 United States Code (U.S.C.) 552(e)(4) and (11); and Office of Management and Budget (OMB) Circular A–130, Appendix I, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' the Department of Commerce is issuing this notice of its intent to establish a new system of records entitled COMMERCE/DEPARTMENT–24, BusinessUSA Intellectual Hosting Service Application and Satisfaction Survey Records (BUSA IHSA & SSR). This action is being taken to update the Privacy Act notice and Department of Commerce, Notice to Amend All Privacy Act System of Records. We invite the public to comment on the items noted in this publication.

BusinessUSA (BUSA) is a gateway to business resources for U.S. small businesses and exporters. Its mission is to serve America's businesses by providing easy access to government resources and opportunities, and by efficiently providing consistent, timely, relevant, accurate, complete, and trustworthy information to help them succeed. BUSA strives to provide a seamless and effective customer experience where businesses can discover, locate, access, and use applicable resources. To accomplish BUSA's mission, this system of records will maintain information on customers (defined as individuals and businesses) who request information or assistance through BUSA's multi-channel approach as facilitated by BUSA's Intellectual Hosting Service Application and Satisfaction Survey Records. It will be accessible only to a limited number of approved entities, as explained in greater detail below.

DATES: To be considered, written comments must be submitted on or before June 12, 2014.

Unless comments are received, the new system of records will become effective as proposed on the date of publication of a subsequent notice in the **Federal Register**.

ADDRESSES: You may submit written comments by any of the following methods:

Email: *Efrain.Gonzalez@businessusa.gov*. Include ''Privacy Act COMMERCE/DEPARTMENT–24, BUSA IHMS & SSR'' in the subtext of the message.

Fax: (202) 501–4693, marked to the attention of Mr. Efrain Gonzalez, Jr.

Mail: Mr. Efrain Gonzalez, Jr., BusinessUSA, U.S. Department of Commerce, 1401 Constitution Ave. NW., Room 2830, Washington, DC 20230.

Federal Rulemaking Portal: *http://www.regulations.gov*.

All comments received will be available for public inspection at the Federal rulemaking portal located at *www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Mr. Efrain Gonzalez, Jr., Chief Financial Officer/Chief Administrative Officer, BusinessUSA, U.S. Department of Commerce 1401 Constitution Ave. NW., Room 2830, Washington, DC 20230, (202) 482–6407.

SUPPLEMENTARY INFORMATION: This notice announces the Department of Commerce's proposal for a new system of records under the Privacy Act of 1974 for BUSA.

The BUSA IHSA SSR is a new system that manages the customer-to-resource interaction. It connects customers with programs, resources, data, points of contact, and other relevant information to help businesses grow. BUSA makes it easier for businesses to find the answers and assistance they need quickly through a multi-channel approach (including contact center, Web site, email and social media) that is facilitated by BUSA's Intellectual Hosting Service Application and Satisfaction Survey Records. BUSA serves as a central point of contact to exchange information among Federal, state, regional and local entities involved in the provision of business enterprise assistance. BUSA aims to provide a single customer experience for America's businesses when entering the Federal gateway by removing the redundancy of multiple contacts and access to difference Federal resource areas, while ensuring customers are properly referred to best suited resources in a timely manner.

BUSA will ensure a safe and secure environment for America's businesses by providing security controls and privacy that will enable integrity, availability and confidentiality. BUSA will sustain a comprehensive framework that provides ubiquitous access to government information and services to help grow American businesses. BUSA will: (a) Capture key business characteristics from U.S. small businesses and exporters; and (b) capture resource summary information and relevant point of contact from resource providers and local business assistance organizations. This information will be used to make informed referrals to appropriate resource providers, business assistance organizations and programs. BUSA will analyze trends and solicit feedback from the businesses about what programs and services they find most valuable and their preferred delivery mechanisms. BUSA will use business community feedback to provide business intelligence solutions for evolving technology to improve business customers' request and experience with the Federal government.

This new system of records will be accessible only to BUSA internal staff, BUSA Federal partner agencies and bureaus, and cloud-based solution provider. Information will be disclosed on a need to know basis. The system of records may be accessible on a limited basis to resource providers and local business assistance organizations. The system of records is designed to record: (1) Customer biographical information (see Categories of Individuals Covered by the System); (2) business resource summary information and relevant points of contact (see Categories of Individuals Covered by the System); (3) referrals to Federal partner programs, resources, data, and other relevant business-focused information; and (4) customer responses to service satisfaction. Information collected in this system of records is basic, non-proprietary business and biographical information. Information collected is used to match customer inquiry and/or request with best resource available. No private or proprietary data will be collected and/or stored by this system.

COMMERCE/DEPARTMENT–24

SYSTEM NAME:

COMMERCE/DEPARTMENT–24, BusinessUSA Intellectual Hosting Service Application and Satisfaction Survey Records

SECURITY CLASSIFICATION:

None

SYSTEM LOCATION:

BusinessUSA, U.S. Department of Commerce, 1401 Constitution Ave. NW., Room 2830, Washington, DC 20230.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(a) Customer Biographical Information; and, (b) Resource Provider and Local Business Assistance Organization Information.

CATEGORIES OF RECORDS IN THE SYSTEM:

For (a) Customer Biographical Information Category—individual customer name, company name, personal or business email address, personal or business telephone number, personal or business mailing address, data and time of contact, customer service agent name, customer number, industry, contact type, year(s) in business, size of firm, company Web site (URL), ownership, years in exporting, countries exported to, number of employees, annual revenue, service need, customer request, service resolution, contact experience, service satisfaction, service recommendation(s)/referral(s), contact preference, and desire to be contacted to discuss survey results; and for (b) Resource Provider and Local Business Assistance Organization Information Category—submitter name, submitter email address, resource name, resource summary description, name of resource point of contact (POC), POC email, and POC telephone.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

15 U.S.C. 1512

PURPOSES:

The purpose of this system is to assemble in one system the necessary information to assist customers in connecting with business assistance services, programs, data and other resources in a larger effort to help the economy by supporting U.S. small businesses and exporters grow and create jobs. Some of these customers would be individuals proposing to start a business. This system serves as a controlled repository for customer data and available business resource summary information. BUSA uses this information to monitor its performance, provide customer information to Federal agency and bureau partners, and Federal partners' sponsored organizations to further serve the customer, and to obtain customer feedback concerning their service experience and the level of satisfaction provided by BUSA and the serving agency.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records may be disclosed as follows:

1. In the event that a system of records maintained by the DOC to carry out its functions indicates a violation or potential violation of law or contract, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute or contract, or rule, regulation, or order issued pursuant thereto, or the necessity to protect an interest of the DOC and Federal partners, the relevant records in the system of records may be referred to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute or contract, or rule or order issued pursuant thereto, or protecting the interest of the DOC.

2. A record from this system of records may be disclosed to BUSA Federal agency and bureau partners including: the Department of Commerce (DOC), Small Business Administration (SBA), Department of Defense (DOD), Department of Veteran Affairs (VA), U.S. Environmental Protection Agency (EPA), U.S. Housing and Urban Development (HUD), Department of Health and Human Services (HHS), General Services Administration (GSA), United States Department of Agriculture (USDA), Department of Energy (DOE), Office of Management and Budget (OMB), Department of State, Export/Import Bank, Overseas Private Investment Corporation (OPIC), Department of Transportation (DOT), Department of Treasury, Department of Justice (DOJ), National Science Foundation (NSF), U.S. Trade Development Agency (USTDA), Department of Education, Department of Labor (DOL), Department of Interior (DOI), Department of Homeland Security (DHS), and the National Aeronautical and Space Administration (NASA) in connection with the assignment, based on customer need, and programs for the purpose of linking American businesses to available government business resources.

3. A record from this system of records may be disclosed to Federal partners' sponsored organizations, including Federal grantees and/or certified organizations involved in business development efforts and assistance such as: DOC's National Institute of Standards and Technology (NIST) Hollings Manufacturing Extension Partnership (MEP) Centers, DOC's NIST Manufacturing Technology Acceleration Centers (MTAC), DOC's Economic Development Administration (EDA) University Centers, DOC's Minority Business Development Agency (MBDA) Business Centers, Native American Business Enterprise Centers and Procurement Assistance Centers, DOC's International Trade Administration (ITA) Trade Promotion Coordinating Committee (TPCC), DOD's Procurement Technical Assistance Centers (PTAC), SBA's Small Business Development Centers (SBDC), Small Business and Technology Development Centers (SBTDC), Women Business Centers (WBC), Veteran Business Outreach Centers (VBOC), Service Corps of Retired Executives (SCORE), DOT's Small Business Transportation Resource Centers (SBTRC), and Treasury's Community Development Financial Institutions (CDFI), in connection with the assignment, based on customer need, and programs for the purpose of linking American businesses to available business resources.

4. A record from this system of records may be disclosed to partner state governments, local governments, Non-Profit business development and assistance organizations, in connection with the assignment, based on customer need, and programs for the purpose of linking American businesses to available business resources.

5. A record in this system of records may be disclosed to a Member of Congress submitting a request involving an individual when the individual has requested assistance from the Member with respect to the subject matter of the record.

6. A record in this system of records may be disclosed to the Department of Justice in connection with determining whether disclosure thereof is required by the Freedom of Information Act (5 U.S.C. 552).

7. A record in this system of records may be disclosed to a contractor of the DOC having need for the information in the performance of the contract, but not operating a system of records within the meaning of 5 U.S.C. 552a(m).

8. A record from this system of records may be disclosed to the Administrator, General Services Administration (GSA), or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practice and programs, under the authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e. GSA or Commerce)

directive. Such disclosure shall not be used to make determinations about individuals.

9. A record from this system of records may be disclosed in the course of presenting evidence to a court, magistrate or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

10. A record in this system of records may be disclosed, as a routine use, to appropriate agencies, entities and persons when (1) it is suspected or determined that the security or confidentiality of information in the system of records has been compromised; (2) the DOC has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or whether systems or programs (whether maintained by the DOC or another agency or entity) that rely upon the compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the DOC's efforts to respond to the suspected or confirmed compromise and to prevent, minimize, or remedy such harm.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Not applicable.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE: On electronic digital media in encrypted format within a controlled environment, and accessed only by authorized personnel.

RETRIEVABILITY: By individual's name, business name or other identifier such as email address or telephone number.

SAFEGUARDS: Maintained in areas accessible only to authorized personnel in a building protected by security guards. System is password protected and is FIPPS 199 compliant. System adheres to a Moderate security rating.

RETENTION AND DISPOSAL: All records shall be retained and disposed of in accordance with Department directives and series records schedule.

SYSTEM MANAGER(S) AND ADDRESS:

System Administrator, BusinessUSA, U.S. Department of Commerce, 1401 Constitution Ave. NW., Washington, DC 20230.

NOTIFICATION PROCEDURE:

An individual requesting notification of existence of records on himself or herself should send a signed, written inquiry to the U.S. Department of Commerce, Freedom of Information and Privacy Act Office at 1401 Constitution Ave. NW., Room A300, Washington, DC 20230. The request letter should be clearly marked, ''PRIVACY ACT REQUEST.'' The written inquiry must be signed and notarized or submitted with certification of identity under penalty of perjury. Requesters should reasonable specify the record contents being sought.

RECORD ACCESS PROCEDURES:

An individual requesting access to records on himself/herself should send a signed, written inquiry to the U.S. Department of Commerce, Freedom of Information and Privacy Act Office at 1401 Constitution Ave. NW., Room A300, Washington, DC 20230. The request letter should be clearly marked, ''PRIVACY ACT REQUEST.'' The written inquiry must be signed and notarized or submitted with certification of identity under penalty of perjury. Requesters should reasonable specify the record contents being sought.

CONTESTING RECORDS PROCEDURES:

An individual requesting corrections or contesting information contained in his or her records must send a signed, written request inquiry to the U.S. Department of Commerce, Freedom of Information and Privacy Act Office, 1401 Constitution Ave. NW., Room A300, Washington, DC 20230. Requesters should reasonable identify the records, specify the information they are contesting and state the corrective action sought and the reasons for the correction with supporting justification showing how the record is incomplete, untimely, inaccurate, or irrelevant.

RECORD SOURCE CATEGORIES:

Subject individuals; individuals who interact with the DOC through social media networks or as a result of public outreach.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Dated: May 8, 2014.

Brenda Dolan,

Freedom of Information and Privacy Act Officer, Department of Commerce.

[FR Doc. 2014–10961 Filed 5–12–14; 8:45 am]

BILLING CODE 3510–17–P

DEPARTMENT OF COMMERCE

Economic Development Administration

Notice of Petitions by Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration, Department of Commerce.

ACTION: Notice and Opportunity for Public Comment.

Pursuant to Section 251 of the Trade Act 1974, as amended (19 U.S.C. 2341 *et seq.*), the Economic Development Administration (EDA) has received petitions for certification of eligibility to apply for Trade Adjustment Assistance from the firms listed below. Accordingly, EDA has initiated investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each of these firms contributed importantly to the total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

LIST OF PETITIONS RECEIVED BY EDA FOR CERTIFICATION ELIGIBILITY TO APPLY FOR TRADE ADJUSTMENT ASSISTANCE

[05/06/2014 through 05/06/2014]

Firm name	Firm address	Date accepted for investigation	Product(s)
Albion Manufacturing Technologies, Inc.	101 N. Main Street, Clearfield, UT 84015.	5/6/2014	The firm manufacturers vitamin and mineral supplement products for animals, plants and humans.
KCP Metal Fabrications, Inc ...	5475 N. Northwest Highway, Chicago, IL 60630.	5/6/2014	The firm manufacturers fabricated metal products for the electronic, point of purchase display, and food service industries.

Any party having a substantial interest in these proceedings may request a public hearing on the matter. A written request for a hearing must be submitted to the Trade Adjustment Assistance for Firms Division, Room 71030, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than ten (10) calendar days following publication of this notice.

Please follow the requirements set forth in EDA's regulations at 13 CFR 315.9 for procedures to request a public hearing. The Catalog of Federal Domestic Assistance official number and title for the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance for Firms.

Dated: May 6, 2014.

Michael DeVillo,

Eligibility Examiner.

[FR Doc. 2014–10918 Filed 5–12–14; 8:45 am]

BILLING CODE 3510–WH–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–909]

Certain Steel Nails from the People's Republic of China: Amended Final Results of the Fourth Antidumping Duty Administrative Review

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

SUMMARY: The Department of Commerce (''Department'') is amending the final results [1] of the fourth administrative review of the antidumping duty order on certain steel nails (''nails'') from the People's Republic of China (''PRC'') to correct a certain ministerial error. The period of review is August 1, 2011, through July 31, 2012.

DATES: *Effective Date:* May 13, 2014.

FOR FURTHER INFORMATION CONTACT: Matthew Renkey or Javier Barrientos, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone 202–482–2312 or 202–482–2243, respectively.

SUPPLEMENTARY INFORMATION:

Background

On April 3, 2014, the Department disclosed to interested parties its calculations for the *Final Results*. On April 8, 2014, we received ministerial error comments from Certified Products International Inc. (''CPI'').

Ministerial Errors

Section 751(h) of the Tariff Act of 1930, as amended (''Act''), and 19 CFR 351.224(f) define a ''ministerial error'' as an error ''in addition, subtraction, or other arithmetic function, clerical error resulting from inaccurate copying, duplication, or the like, and any similar type of unintentional error which the Secretary considers ministerial.'' CPI states that it submitted a letter stating that it had no shipments during the period of review.[2] CPI also notes that the Department considered it as a no-shipments company both in the *Preliminary Results* [3] and in the *Final Results,*[4] so its inclusion among the list of those companies being considered as part of the PRC-wide entity in the Appendix to the Issues and Decision Memorandum must be a clerical error.

After analyzing CPI's ministerial error comments, we determined, in accordance with section 751(h) of the Act and 19 CFR 351.224(e), that we made a ministerial error in listing it among the companies we found to be part of the PRC-wide entity in the Appendix to the Issues and Decision Memorandum. Additionally, after reviewing the list of companies in the Appendix to the Issues and Decision Memorandum, we noted that we inadvertently included other no-shipment companies on the list. The following no-shipment companies are those that we inadvertently included in the list of companies we found to be part of the PRC-wide entity: (1) Besco Machinery Industry (Zhejiang) Co., Ltd.; (2) Certified Products International Inc.; (3) Jining Huarong Hardware Products Co., Ltd.; (4) PT Enterprise Inc.; (5) Shanghai Jade Shuttle Hardware Tools Co., Ltd.; (6) Shanghai Tengyu Hardware Tools Co., Ltd.; and (7) Shanxi Yuci Broad Wire Products Co., Ltd.

Amended Final Results of the Administrative Review

In accordance with section 751(h) of the Act and 19 CFR 351.224(e), we are amending the *Final Results* of the fourth administrative review of the antidumping duty order on nails from the PRC, specifically the appendix which appears at the end of the Issues and Decision Memorandum, to clarify that the seven companies listed above are no-shipment companies and should not be considered as part of the PRC-wide entity. We note this does not change the dumping margin for any of these companies, and thus their assessment rates and cash deposit rates remain the same as in the *Final Results*.

We are publishing these amended final results in accordance with sections 751(h) and 777(i)(1) of the Act.

Dated: May 5, 2014.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2014–10949 Filed 5–12–14; 8:45 am]

BILLING CODE 3510–DS–P

[1] *See Certain Steel Nails from the People's Republic of China: Final Results of the Fourth Antidumping Duty Administrative Review,* 79 FR 19316 (April 8, 2014) (''*Final Results*'') and accompanying Issues and Decision Memorandum.

[2] *See* CPI's November 11, 2012, No Shipments Letter.

[3] *See Certain Steel Nails from the People's Republic of China: Preliminary Results of the Fourth Antidumping Duty Administrative Review,* 78 FR 56861 (September 16, 2013) and accompanying Decision Memorandum at 3–4.

[4] *See Final Results,* 78 FR at 19317.

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–921]

Lightweight Thermal Paper From the People's Republic of China: Rescission of Countervailing Duty Administrative Review; 2012

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

SUMMARY: The Department of Commerce (the Department) is rescinding the administrative review of the countervailing duty (CVD) order on lightweight thermal paper (LWTP) from the People's Republic of China (PRC) for the period January 1, 2012, through December 31, 2012.

DATES: *Effective Date:* May 13, 2014.

FOR FURTHER INFORMATION CONTACT: Joshua Morris or Nancy Decker, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–1779 or (202) 482–0196, respectively.

Background

The Department initiated an administrative review of the CVD order on LWTP from the PRC with respect to 18 companies covering the period January 1, 2012, through December 31, 2012, based on a request by Appvion, Inc. (Appvion).[1] On March 27, 2014,

[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and*

Continued

Appvion withdrew its request for an administrative review in its entirety. No other party requested a review.

Rescission of Review

Pursuant to 19 CFR 351.213(d)(1), the Department will rescind an administrative review, in whole or in part, if the party that requested the review withdraws its request within 90 days of the publication of the notice of initiation of the requested review. In this case, Appvion withdrew its request within the 90-day deadline, and no other party requested an administrative review of the CVD order. Therefore, in accordance with 19 CFR 351.213(d)(1), we are rescinding the administrative review of LWTP from the PRC covering the period January 1, 2012, through December 31, 2012.

Assessment

The Department will instruct U.S. Customs and Border Protection (CBP) to assess CVDs on all entries of LWTP from the PRC during the period of review, January 1, 2012, through December 31, 2012, at rates equal to the cash deposit of estimated CVDs required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). The Department intends to issue appropriate assessment instructions to CBP 15 days after publication of this notice.

Notifications

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of CVDs prior to liquidation of the relevant entries during this review period.

This notice also serves as a final reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Request for Revocation in Part, 78 FR 79392, 79398 (December 30, 2013). *See also Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part,* 79 FR 6147, 6156, n.12 (February 3, 2014).

Dated: May 6, 2014.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2014–10946 Filed 5–12–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Information Collection; Submissions Regarding Correspondence and Regarding Attorney Representation (Trademarks)

ACTION: Notice.

SUMMARY: The United States Patent and Trademark Office (USPTO), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on the revision of this continuing information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before July 14, 2014.

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

- Email: *InformationCollection@uspto.gov.* Include ''0651–0056 comment'' in the subject line of the message.
- Mail: Susan K. Fawcett, Records Officer, Office of the Chief Information Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.
- Federal Rulemaking Portal: *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to the attention of Catherine Cain, Attorney Advisor, Office of the Commissioner for Trademarks, United States Patent and Trademark Office, P.O. Box 1451, Alexandria, VA 22313–1451, by telephone at 571–272–8946, or by email to *Catherine.Cain@uspto.gov.* Additional information about this collection is also available at *http://www.reginfo.gov* under ''Information Collection Review.''

SUPPLEMENTARY INFORMATION:

I. Abstract

The United States Patent and Trademark Office (USPTO) administers the Trademark Act, 15 U.S.C. 1051 *et seq.,* which provides for the Federal registration of trademarks, service marks, collective trademarks and service marks, collective membership marks, and certification marks. Individuals and businesses that use or intend to use such marks in commerce may file an application to register their marks with the USPTO.

Such individuals and businesses may also submit various communications to the USPTO regarding their pending applications or registered trademarks, including providing additional information needed to process a pending application, filing amendments to the applications, or filing the papers necessary to keep a trademark in force. In the majority of circumstances, individuals and businesses retain attorneys to handle these matters. As such, these parties may also submit communications to the USPTO regarding the appointment of attorneys of record to represent applicants in the application process or, in the case of applicants or registrants who are not domiciled in the United States, the appointment of domestic representatives on whom may be served notices or process in proceedings affecting the mark, the revocation of an attorney's or domestic representative's appointment, and requests for permission to withdraw from representation.

The rules implementing the Act are set forth in 37 CFR Part 2. In addition to governing the registration of trademarks, the Act and rules also govern the appointments and revocations of attorneys and domestic representatives and provide the specifics for filing requests for permission to withdraw as the attorney of record. The information in this collection is available to the public.

The information in this collection can be submitted in paper format or electronically through the Trademark Electronic Application System (TEAS). The information in this collection can be collected in three different formats: Paper format, electronically using TEAS forms with dedicated data fields, or electronically using the TEAS Global Form format. The TEAS Global Form format permits the USPTO to collect information electronically when a TEAS form having dedicated data fields is not yet available.

This collection currently has two TEAS forms and two TEAS Global Forms. There are no official paper forms for the items in this collection. Individuals and businesses can submit their own paper forms, following the USPTO's rules and guidelines to ensure that all of the necessary information is provided.

II. Method of Collection

The forms in this collection are available in electronic format through TEAS, which may be accessed on the USPTO Web site. TEAS Global Forms are available for the items where a TEAS form with dedicated data fields is not yet available. Applicants may also submit the information in paper form by mail, fax, or hand delivery.

III. Data

Title of Collection: Submissions Regarding Correspondence and Regarding Attorney Representation.

OMB Number: 0651–0056.

Form Number(s): PTO Forms 2196, 2197, and 2201. TEAS Global Forms: Change of Domestic Representative's Address, Replacement of Attorney of Record with Another Already-Appointed Attorney, and Request to Withdraw as Domestic Representative.

Type of Review: Regular submission (Renewal of Existing Collection with Changes).

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

Estimated Number of Respondents: 108,940 per year. Of this total, the USPTO estimates that 103,751 responses will be filed through TEAS.

Estimated Time Per Response: The USPTO estimates that it will take the public approximately 5 to 30 minutes (0.084 hours to 0.50 hours) to complete this information, depending on the complexity of the application. This includes the time to gather the necessary information, prepare the requests, and submit them to the USPTO. The time estimates shown for the electronic forms in this collection are based on the average amount of time needed to complete and electronically file the associated form.

Estimated Total Annual Respondent Burden Hours: 10,540.

Item No.	Item	Estimated time for response	Estimated annual responses	Estimated annual burden hours
1	Revocation of Attorney/Domestic Representative and/or Appointment of Attorney/Domestic Representative (Paper).	10	4,750	792
1	Revocation of Attorney/Domestic Representative and/or Appointment of Attorney/Domestic Representative (TEAS).	5	95,000	7917
2	Request for Permission to Withdraw as Attorney of Record (Paper)	15	425	106
2	Request for Permission to Withdraw as Attorney of Record (TEAS)	12	8,500	1700
5	Replacement of Attorney of Record with Another Already Appointed Attorney (Paper).	30	1	1
5	Replacement of Attorney of Record with Another Already Appointed Attorney (TEAS Global).	30	1	1
6	Request to Withdraw as Domestic Representative (Paper)	10	13	2
6	Request to Withdraw as Domestic Representative (TEAS Global)	5	250	21
Totals			108,940	10,540

Estimated Total Annual Respondent Cost Burden: $4,100,060.

The USPTO expects that the information in this collection will be prepared by attorneys at an estimated rate of $389 per hour.

Item No.	Item	Estimated annual burden hours	Attorney hourly rate	Estimated annual burden hours
1	Revocation of Attorney/Domestic Representative and/or Appointment of Attorney/Domestic Representative (Paper).	792	$389	$308,088
1	Revocation of Attorney/Domestic Representative and/or Appointment of Attorney/Domestic Representative (TEAS).	7917	389	3,079,713
2	Request for Permission to Withdraw as Attorney of Record (Paper)	106	389	41,234
2	Request for Permission to Withdraw as Attorney of Record (TEAS)	1700	389	661,300
5	Replacement of Attorney of Record with Another Already Appointed Attorney (Paper).	1	389	389
5	Replacement of Attorney of Record with Another Already Appointed Attorney (TEAS Global).	1	389	389
6	Request to Withdraw as Domestic Representative (Paper)	2	389	778
6	Request to Withdraw as Domestic Representative (TEAS Global)	21	389	8,169
Totals		10,540		4,100,060

Estimated Total Annual (Non-Hour) Respondent Cost Burden: There are no filing fees or capital start-up, maintenance, operation, or recordkeeping costs associated with this information collection. However, this collection does have postage costs associated with it.

Applicants incur postage costs when submitting the information in paper format to the USPTO by mail through the United States Postal Service. The USPTO estimates that the majority (98%) of the paper forms are submitted to the USPTO via first-class mail. The USPTO estimates that 5086 paper submissions will be mailed, for a total non-hour respondent cost burden of $2,492.00.

Item No.	Item	Responses (yr) (a)	Postage costs (b)	Total cost (yr) (a × b)
1	Revocation of Attorney/Domestic Representative and/or Appointment of Attorney/Domestic Representative.	4655	$0.49	$2328.00
2	Request for Permission to Withdraw as Attorney of Record	417	0.49	209.00
5	Replacement of Attorney of Record with Another Already Appointed Attorney.	1	0.49	1.00
6	Request to Withdraw as Domestic Representative	13	0.49	7.00
Totals		5,086		2,492.00

IV. Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

The USPTO is soliciting public comments to: (a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) Enhance the quality, utility, and clarity of the information to be collected; and (d) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Dated: May 8, 2014.

Susan K. Fawcett,

Records Officer, USPTO, Office of the Chief Information Officer.

[FR Doc. 2014–10942 Filed 5–12–14; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Global Positioning System Pre-Operational Civil Navigation Message

AGENCY: Office of the Secretary of Defense, Office of Public Affairs, DoD.

ACTION: GPS notice.

SUMMARY: The purpose of this notification is to inform users of an upcoming event related to the Global Positioning System (GPS) satellite constellation. U.S. Air Force Space Command will begin providing *pre-operational,* Civil Navigation Message (CNAV) populated L2C and L5 signals beginning April 28, 2014 in a 2-phase plan, as previously highlighted in a Department of Transportation notice that published in the **Federal Register** on March 5, 2014 (79 FR 12563–12564). Based on the response to the March 5, 2014 notice, and extensive discussion and cooperation between the Office of the Secretary of Defense (OSD) and the Department of Transportation, OSD has approved a modification to U.S. Air Force Space Command's planned implementation of CNAV. The public should consider these broadcasts to be *''use at one's own risk,''* since a fully operational command and control and signal monitoring infrastructure is not yet in place.

FOR FURTHER INFORMATION CONTACT: Brigadier General David J. Buck, USAF, Director of Air, Space and Cyberspace Operations, Department of the Air Force, Headquarters Air Force Space Command, 150 Vandenberg Street, Suite 1105, Peterson AFB, CO 80914–4170.

SUPPLEMENTARY INFORMATION: The CNAV message broadcasts planned to begin in April 2014 will be implemented on all operational GPS satellites capable of transmitting the L2C and L5 signals. Currently, seven GPS IIR–M satellites broadcast L2C and four GPS IIF satellites broadcast L2C and L5. On average, users may expect at least one L2C-broadcasting satellite to be in view at all times. The CNAV message content will initially include Broadcast Message Types (MT) 10, 11, 30, and 33 (as defined in Interface Specification (IS)–GPS–200G and IS–GPS–705C, see *http://www.gps.gov/technical/icwg/*) in lieu of the currently transmitted MT–0. The Air Force intends to broadcast L2C messages with the health bit set ''healthy,'' as was the case during a June 2013 test. L5 messages will be set ''unhealthy,'' but as greater experience with the L5 broadcast and implementation of signal monitoring is achieved, this status will be reviewed and revisited. Should it be determined to set the L5 health bit to ''healthy,'' advance notification will be made to the public. The CNAV data uploads will be integrated into current operations, but initially uploads to each appropriate satellite will occur only twice per week. In December 2014, CNAV uploads are planned to be at the normal rate of once per day for each appropriate satellite. Consequently, users should expect L2C and L5 signals with CNAV messages to provide increased user range error compared to legacy civil signals between April and December 2014. After December 2014, the user range error of the L2C and L5 signals with CNAV messages is expected to meet or exceed that of legacy signals. However, availability will remain low and CNAV-derived user position accuracy may be poor until more L2C and L5 capable satellites are operational. Future tests and implementation of the remaining CNAV message types will be announced under separate **Federal Register** notices.

The pre-operational CNAV messages are being made available for user familiarization and for equipment development. The messages will be formatted in accordance with IS–GPS–200G and IS–GPS–705C; however, a pre-operational signal means the availability and other characteristics of the broadcast signal may not comply with all requirements of the relevant Interface Specifications. The signals should be employed at the users' own risk and should not be used for safety-of-life or other critical purposes.

Dated: May 8, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2014–10917 Filed 5–12–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Response Systems to Adult Sexual Assault Crimes Panel; Notice of Federal Advisory Committee Meeting; Amendment

AGENCY: Department of Defense.

ACTION: Notice of meeting; amendment.

SUMMARY: On May 5, 2014, the Department of Defense published a notice titled Response Systems to Adult Sexual Assault Crimes Panel; Notice of Federal Advisory Committee Meeting (79 FR 25585–25586). Subsequent to the publication of that notice, the start time of the meeting changed. This notice amends the start time.

DATES: A meeting of the Response Systems to Adult Sexual Assault Crimes Panel (''the Panel'') will be held Friday, May 16, 2014 from 9:00 a.m. to 1:00 p.m.

ADDRESSES: U.S. District Court for the District of Columbia, 333 Constitution Avenue NW., Courtroom # 20, 6th Floor, Washington, DC 20001.

FOR FURTHER INFORMATION CONTACT: Ms. Terri Saunders, Response Systems Panel, One Liberty Center, 875 N. Randolph Street, Suite 150, Arlington, VA 22203. Email: *Terri.a.saunders.civ@mail.mil*. Phone: (703) 693–3829. Web site: *http://responsesystemspanel.whs.mil*.

SUPPLEMENTARY INFORMATION: This public meeting is being held under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150.

Purpose of the Meeting: At this meeting, the Panel will deliberate on the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112–239), Section 576(a)(1) requirement to conduct an independent review and assessment of the systems used to investigate, prosecute, and adjudicate crimes involving adult sexual assault and related offenses under 10 U.S.C. 920 (article 120 of the Uniform Code of Military Justice), for the purpose of developing recommendations regarding how to improve the effectiveness of such systems. The Panel is interested in written and oral comments from the public, including non-governmental organizations, relevant to this tasking.

Agenda:

May 16, 2014

- 9:00 a.m.–9:05 a.m. Comments from the Panel Chair
- 9:05 a.m.–12:45 p.m. Panel Deliberations
- 12:45 p.m.–1:00 p.m. Public Comment

Availability of Materials for the Meeting: A copy of the agenda or any updates to the agenda for the May 16, 2014 meeting, as well as other materials presented in the meeting, may be obtained at the meeting or from the Panel's Web site at: *http://responsesystemspanel.whs.mil*.

Public's Accessibility to the Meeting: Pursuant to 5 U.S.C. 552b and 41 CFR 102–3.140 through 102–3.165, and the availability of space, this meeting is open to the public. Seating is limited and is on a first-come basis.

Special Accommodations: Individuals requiring special accommodations to access the public meeting should contact Ms. Terri Saunders at *Terri.a.saunders.civ@mail.mil* at least five (5) business days prior to the meeting so that appropriate arrangements can be made.

Procedures for Providing Public Comments: Pursuant to 41 CFR 102–3.105(j) and 102–3.140, and section 10(a)(3) of the Federal Advisory Committee Act of 1972, the public or interested organizations may submit written comments to the Panel about its mission and topics pertaining to this public session. Written comments must be received by Ms. Terri Saunders at least five (5) business days prior to the meeting date so that they may be made available to the Panel for their consideration prior to the meeting. Written comments should be submitted via email to the address for Ms. Terri Saunders given in this notice in the following formats: Adobe Acrobat or Microsoft Word. Please note that since the Panel operates under the provisions of the Federal Advisory Committee Act, as amended, all written comments will be treated as public documents and will be made available for public inspection. If members of the public are interested in making an oral statement, a written statement must be submitted along with a request to provide an oral statement. Oral presentations by members of the public will be permitted between 12:45 p.m. and 1:00 p.m. May 16, 2014 in front of the Panel. The number of oral presentations to be made will depend on the number of requests received from members of the public on a first-come basis. After reviewing the requests for oral presentation, the Chairperson and the Designated Federal Officer will, having determined the statement to be relevant to the Panel's mission, allot five minutes to persons desiring to make an oral presentation.

Committee's Designated Federal Officer: The Board's Designated Federal Officer is Ms. Maria Fried, Response Systems to Adult Sexual Assault Crimes Panel, 1600 Defense Pentagon, Room 3B747, Washington, DC 20301–1600.

Due to difficulties beyond the control of the Response Systems Panel or its DFO, the amended **Federal Register** notice that adjusts the starting time for the May 16, 2014 meeting was not submitted within the time frame required by 41 CFR 102–3.150(a). Accordingly, the Advisory Committee Management Officer for the Department of Defense, pursuant to 41 CFR 102–3.150(b), waives the 15-calendar day notification requirement.

Dated: May 8, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2014–10935 Filed 5–12–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Strategic Environmental Research and Development Program, Scientific Advisory Board; Notice of Federal Advisory Committee Meeting

AGENCY: Department of Defense.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing this notice to announce an open meeting of the Strategic Environmental Research and Development Program, Scientific Advisory Board (SAB). This meeting will be open to the public.

DATES: Wednesday, June 11, 2014, from 8:00 a.m. to 4:50 p.m.

ADDRESSES: Peery Hotel, 110 West Broadway, Salt Lake City, UT 84101.

FOR FURTHER INFORMATION CONTACT: Mr. Jonathan Bunger, SERDP Office, 4800 Mark Center Drive, Suite 17D08, Alexandria, VA 22350–3605; *jonathan.p.bunger.ctr@mail.mil* or by telephone at (571) 372–6384.

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C. Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150. This notice is published in accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463).

Pursuant to 5 U.S.C. 552b and 41 CFR 102–3.140 through 102–3.165, and the availability of space, this meeting is open to the public. Seating is on a first-come basis.

The purpose of the June 11, 2014 meeting is to review new start and continuing research and development projects requesting Strategic Environmental Research and Development Program funds in excess of $1 million over the proposed length of the project as required by the SERDP

Statute, U.S. Code - Title 10, Subtitle A, Part IV, Chapter 172, § 2904. The full agenda follows:

8:00 a.m.	Convene/Opening Remarks, Approval of December 2013 Minutes	Mr. Joseph Francis, Chair.
8:05 a.m.	Program Update	Dr. Anne Andrews, Acting Executive Director.
8:20 a.m.	Resource Conservation and Climate Change Overview	Dr. John Hall, Resource Conservation and Climate Change, Program Manager.
8:30 a.m.	RC–2245: Defense Coastal/Estuarine Research Program (DCERP), (FY15 Continuing).	Dr. Patricia Cunningham, RTI International, Research Triangle Park, NC.
10:00 a.m. ...	Break	
10:15 a.m. ...	RC–2245: Defense Coastal/Estuarine Research Program (DCERP), (FY15 Continuing).	Dr. Patricia Cunningham, RTI International, Research Triangle Park, NC.
12:05 p.m. ...	Lunch	
1:00 p.m.	Resource Conservation and Climate Change Overview	Dr. John Hall, Resource Conservation and Climate Change, Program Manager.
1:10 p.m.	14 RC01–029 (RC–2441): Restoring Function to a Novel Ecosystem in the Presence of One of the World's Most Destructive Invasive Species (FY14 New Start).	Dr. Haldre Rogers, Rice University, Houston, TX.
1:55 p.m.	Toxiciology Studies in SERDP Projects	Dr. Robin Nissan, Weapons Systems and Platforms, Program Manager. Dr. Patricia Underwood, Program Manager, Chemical and Material Risk Management, DUSD(I&E).
2:55 p.m.	Break	
3:05 p.m.	Emerging Contaminants	Mr. Paul Yaroshak, Program Manager, Chemical and Material Risk Management, DUSD(I&E).
3:35 p.m.	Addressing DoD's Most Challenging Groundwater Sites	Dr. Andrea Leeson, Deputy Director and Environmental Restoration Program Manager.
4:05 p.m.	Climate Change Initiatives in DoD: SERDP's Role	Dr. John Hall, Resource Conservation and Climate Change, Program Manager.
4:50 p.m.	Public Discussion/Adjourn	

Pursuant to 41 CFR 102–3.105(j) and 102–3.140, and section 10(a)(3) of the Federal Advisory Committee Act of 1972, the public or interested organizations may submit written statements to the Strategic Environmental Research and Development Program, Scientific Advisory Board. Written statements may be submitted to the committee at any time or in response to an approved meeting agenda.

All written statements shall be submitted to the Designated Federal Officer (DFO) for the Strategic Environmental Research and Development Program, Scientific Advisory Board. The DFO will ensure that the written statements are provided to the membership for their consideration. Contact information for the DFO can be obtained from the GSA's FACA Database at *http://www.facadatabase.gov/*.

Time is allotted at the close of each meeting day for the public to make comments. Oral comments are limited to 5 minutes per person.

Dated: May 7, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2014–10864 Filed 5–12–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DoD–2014–OS–0065]

Privacy Act of 1974; System of Records

AGENCY: Office of the Secretary of Defense, DoD.

ACTION: Notice to alter a system of records.

SUMMARY: The Office of the Secretary of Defense proposes to alter a system of records, DWHS P29, entitled ''Personnel Security Adjudications File'', in its inventory of record systems subject to the Privacy Act of 1974, as amended. This system will used by officials of the DoD Consolidated Adjudication Facility (CAF) to adjudicate personnel security investigations (initial, periodic and continuous) and incidents resulting in the issuance, denial, suspension or revocation of an individual's personnel security eligibility. Records are also used by officials of the DoD CAF to adjudicate favorable suitability and HSPD–12 determinations.

DATES: Comments will be accepted on or before June 12, 2014. This proposed action will be effective the date following the end of the comment period unless comments are received which result in a contrary determination.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

* Federal Rulemaking Portal: *http://www.regulations.gov.*

Follow the instructions for submitting comments.

* Mail: Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, 2nd Floor, Suite 02G09, Alexandria, VA 22350–3100.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Ms. Cindy Allard, Chief, OSD/JS Privacy Office, Freedom of Information Directorate, Washington Headquarters Service, 1155 Defense Pentagon, Washington, DC 20301–1155, or by phone at (571) 372–0461.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION**

CONTACT or at the Defense Privacy and Civil Liberties Office Web site at *http://dpclo.defense.gov/.*

The proposed system report, as required by U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on May 8, 2014, to the House Committee on Oversight and Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: May 8, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DWHS P29

Personnel Security Adjudications File (June 7, 1995, 60 FR 30071).

CHANGES:

* * * * *

SYSTEM NAME:

Delete entry and replace with ''Personnel Security, Suitability, and Homeland Security Presidential Directive 12 (HSPD–12) Adjudications.''

SYSTEM LOCATION:

Delete entry and replace with ''Department of Defense (DoD) Consolidated Adjudications Facility (CAF), 600 10th Street, Ft. Meade, MD 20755–5615.''

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with ''DoD civilian employees, federal contractor personnel, consultants, military personnel, and other persons whose personnel security, suitability, and HSPD–12 eligibility are adjudicated by the DoD CAF.''

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with ''Records relating to the adjudication of an individual's personnel security, suitability and HSPD–12 eligibility. Full name (e.g., current, former, alternate, alias, or alternate spelling); date of birth (DoB); place of birth (PoB); age; identification types and numbers (e.g., Social Security Number (SSN), DoD identification number, driver's license, passport).''

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with ''E.O. 10450, as amended, Security Requirements for Government Employment; E.O. 10865, as amended, Safeguarding Classified Information Within Industry; E.O. 12829, as amended, National Industrial Security Program; E.O. 12968, as amended, Access to Classified Information; E.O. 13467 Reforming Processes Related to Suitability for Government Employment, Fitness for Contractor Employees and Eligibility for Access to Classified National Security Information; E.O. 13488 Granting Reciprocity on Excepted Service and Federal Contractors Employee Fitness and Reinvestigating Individuals in Positions of Public Trust; DoD Instruction (DoDI) 1400.25, Volume 731, DoD Civilian Personnel Management System: Suitability and Fitness Adjudication for Civilian Employees; DoDI 5200.02, DoD Personnel Security Program (PSP); DoDI 5220.22, National Industrial Personnel Security Program (NISP); DoD Regulation 5200.2R, DoD Personnel Security Program (PSP); DoD Manual 5105.21, Volume 1, Sensitive Compartmented Information Administrative Security Manual; Director of National Intelligence, Intelligence Community Directive Number 704, Personnel Security Standards and Procedures Governing Eligibility for Access to Sensitive Compartmented Information and Other Controlled Access Program Information; Homeland Security Presidential Directive-12 (HSPD–12), Policy for a Common Identification Standard for Federal Employees and Contractors; Office of Personnel Management Memorandum, Final Credentialing Standards for Issuing Personal Identity Verification Cards under HSPD–12; and authorities cited therein; and E.O. 9397 (SSN), as amended.''

PURPOSE(S):

Delete entry and replace with ''To be used by officials of the DoD CAF to adjudicate personnel security investigations (initial, periodic and continuous) and incidents resulting in the issuance, denial, suspension or revocation of an individual's personnel security eligibility. Records are also used by officials of the DoD CAF to adjudicate favorable suitability and HSPD–12 determinations.

To be used by members of the Military Department Personnel Security Appeal Boards (PSABs); Washington Headquarters Services Clearance Appeal Board; and the Defense Office of Hearings and Appeals to determine appeals of personnel security eligibility denials and revocations.

Decision documents may be provided to appropriate personnel offices to effect personnel actions.''

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Delete entry and replace with ''In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, as amended, these records contained herein may be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The following DoD Blanket Routine Uses apply:

1. Law Enforcement Routine Use.
3. Disclosure of Requested Information Routine Use.
4. Congressional Inquiries Disclosure Routine Use.
6. Disclosures Required by International Agreements Routine Use.
9. Disclosure to the Department of Justice for Litigation Routine Use.
12. Disclosure of Information to the National Archives and Records Administration Routine Use.
13. Disclosure to the Merit Systems Protection Board Routine Use.
14. Counterintelligence Purpose Routine Use.
15. Data Breach remediation Purposes Routine Use.
16. Information Sharing Environment Routine Use.

The remaining DoD Blanket Routine Uses published at the beginning of the Office of the Secretary of Defense compilation of systems of records notices may apply to this system.''

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

STORAGE:

Delete entry and replace with ''Paper file folders and electronic media.''

RETRIEVABILITY:

Delete entry and replace with ''Records are retrieved by last name of subject or by SSN.''

SAFEGUARDS:

Delete entry and replace with ''Records are stored on a secure military installation and in a building with 24-hour controlled access. Access to offices requires swipe access with Common Access Card and PIN. Records are maintained under the direct control of office personnel in the Consolidated Adjudications Facility during duty hours. Office is locked at all times and alarmed when unoccupied. Access to all records is role based and access to electronic records requires use of Common Access Card and PIN. Electronic records are stored on a DoD Information Assurance Certification and Accreditation Process approved IT

system. All personnel are required to take Privacy training annually.''

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with ''Director, DoD Consolidated Adjudications Facility, 600 10th Street, Ft. Meade, MD 20755–5615.''

NOTIFICATION PROCEDURE:

Delete entry and replace with ''Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to Privacy Access Requests, DoD Consolidated Adjudications Facility, 600 10th Street, Ft. Meade, MD 20755–5615.

Requesters should provide full name and any former names used, date and place of birth, and SSN.''

RECORD ACCESS PROCEDURES:

Delete entry and replace with ''Individuals seeking access to information about themselves contained in this system of records should address written inquiries to Privacy Access Requests, DoD Consolidated Adjudications Facility, 600 10th Street, Ft. Meade, MD 20755–5615.

A request for information must contain the full name and any former names used, and SSN of the subject individual and address where the records are to be returned.

In addition, the requester must provide a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

If executed without the United States: 'I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature).'

If executed within the United States, its territories, possessions, or commonwealths: 'I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature).'

Attorneys or other persons acting on behalf of an individual must provide written authorization from that individual for their representative to act on their behalf.''

CONTESTING RECORD PROCEDURES:

Delete entry and replace with ''The OSD rules for accessing records, for contesting contents and appealing initial agency determinations are contained in OSD Administrative Instruction No. 81; 32 CFR part 311; or may be obtained from the system manager.''

RECORD SOURCE CATEGORIES:

Delete entry and replace with ''Information is received from individuals, their attorneys and other authorized representatives; investigative reports from Federal investigative agencies; personnel security records and correspondence; medical and personnel records, reports and evaluations; correspondence from employing agencies; DoD personnel security systems and processes (e.g., Joint Personnel Adjudication System, Continuous Evaluation); and DoD and other Federal organizations, agencies and offices.''

* * * * *

[FR Doc. 2014–10939 Filed 5–12–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2014–ICCD–0033]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Middle Grades Longitudinal Study of 2016–2017 (MGLS:2017) Field Test 2015 Recruitment

AGENCY: Institute of Education Sciences/National Center for Education Statistics (IES), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing a new information collection.

DATES: Interested persons are invited to submit comments on or before June 12, 2014.

ADDRESSES: Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting Docket ID number ED–2014–ICCD–0033 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 note that comments submitted by fax or email and those submitted after the comment period will not be accepted; ED will ONLY accept comments during the comment period in this mailbox when the regulations.gov site is not available.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Mailstop L–OM–2–2E319, Room 2E115, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Kashka Kubdzela, 202–502–7411.

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: Middle Grades Longitudinal Study of 2016–2017 (MGLS:2017) Field Test 2015 Recruitment.

OMB Control Number: 1850–NEW.

Type of Review: A new information collection.

Respondents/Affected Public: State, Local, or Tribal Governments.

Total Estimated Number of Annual Responses: 167.

Total Estimated Number of Annual Burden Hours: 112.

Abstract: The Middle Grades Longitudinal Study of 2016–2017 (MGLS:2017) is the first study sponsored by the National Center for Education Statistics (NCES), within the Institute of Education Sciences (IES) of the U.S. Department of Education (ED), to follow a nationally-representative sample of students as they enter and move through the middle grades (grades 6–8). The data collected through repeated measures of key constructs will provide a rich descriptive picture of the

academic experiences and development of students during these critical years and will allow researchers to examine associations between contextual factors and student outcomes. The study will focus on student achievement in mathematics and literacy along with measures of student socioemotional wellbeing and other outcomes. The study will also include an oversample of students with different types of disabilities that will provide descriptive information on their outcomes, educational experiences, and special education services. Baseline data for the MGLS:2017 will be collected from a nationally-representative sample of 6th grade students in spring of 2017 with annual follow-ups in spring 2018 and spring 2019 when most of the students in the sample will be in grades 7 and 8, respectively. This request is to contact and recruit public school districts and public and private schools to participate in the spring 2015 field test for the MGLS:2017.

Dated: May 8, 2014.

Tomakie Washington,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2014–10930 Filed 5–12–14; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Nuclear Energy Advisory Committee

AGENCY: Office of Nuclear Energy, Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Nuclear Energy Advisory Committee (NEAC). The Federal Advisory Committee Act (Pub. L. 94–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Thursday, June 5, 2014 8:30 a.m.–4:00 p.m.

ADDRESSES: Washington Marriott at Metro Center, 775 12th Street NW., Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Bob Rova, Designated Federal Officer, U.S. Department of Energy, 1000 Independence Avenue SW., Washington DC 20585; telephone (301) 903–9096; email: *robert.rova@nuclear.energy.gov.*

SUPPLEMENTARY INFORMATION:

Background: The Nuclear Energy Advisory Committee (NEAC), formerly the Nuclear Energy Research Advisory Committee (NERAC), was established in 1998 by the U.S. Department of Energy (DOE) to provide advice on complex scientific, technical, and policy issues that arise in the planning, managing, and implementation of DOE's civilian nuclear energy research programs. The committee is composed of approximately 18 individuals of diverse backgrounds selected for their technical expertise and experience, established records of distinguished professional service, and their knowledge of issues that pertain to nuclear energy.

Purpose of the Meeting: To inform the committee of recent developments and current status of research programs and projects pursued by the Department of Energy's Office of Nuclear Energy and receive advice and comments in return from the committee.

Tentative Agenda: The meeting is expected to include presentations that cover such topics as an update on activities for the Office of Nuclear Energy. In addition, there will be presentations by Nuclear Energy Advisory Committee subcommittees. The agenda may change to accommodate committee business. For updates, one is directed to the NEAC Web site: *http://energy.gov/ne/services/nuclear-energy-advisory-committee.*

Public Participation: Individuals and representatives of organizations who would like to offer comments and suggestions may do so on the day of the meeting, Thursday, June 5, 2014. Approximately thirty minutes will be reserved for public comments. Time allotted per speaker will depend on the number who wish to speak but is not expected to exceed 5 minutes. Anyone who is not able to make the meeting or has had insufficient time to address the committee is invited to send a written statement to Bob Rova, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, or email: *robert.rova@nuclear.energy.gov.*

Minutes: The minutes of the meeting will be available by contacting Mr. Rova at the address above or on the Department of Energy, Office of Nuclear Energy Web site at *http://www.ne.doe.gov/neac/neNeacMeetings.html.*

Issued in Washington, DC, on May 7, 2014.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2014–11025 Filed 5–12–14; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Biological and Environmental Research Advisory Committee

AGENCY: Office of Science, Department of Energy.

ACTION: Notice of Open Teleconference Meeting.

SUMMARY: This notice announces a teleconference meeting of the Biological and Environmental Research Advisory Committee (BERAC). The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Wednesday, June 4, 2014, 11:00 a.m. to 1:00 p.m. EDT

ADDRESSES: Public participation is welcomed. Information concerning the call-in number can be found on the Web site: *http://science.energy.gov/ber/berac/meetings* or by contacting Ms. Joanne Corcoran, by email *joanne.corcoran@science.doe.gov* or by phone (301) 903–6488.

FOR FURTHER INFORMATION CONTACT: Dr. David Thomassen, Designated Federal Officer, BERAC, U.S. Department of Energy, Office of Science, Office of Biological and Environmental Research, SC–23/Germantown Building, 1000 Independence Avenue SW., Washington, DC 20585–1290. Telephone (301) 903–9817; Fax (301) 903–5051 or Email: *david.thomassen@science.doe.gov.* The most current information concerning this meeting can be found on the Web site: *http://science.energy.gov/ber/berac/meetings/.*

SUPPLEMENTARY INFORMATION:

Purpose of Meeting: To provide advice on a continuing basis to the Director, Office of Science of the Department of Energy, on the many complex scientific and technical issues that arise in the development and implementation of the Biological and Environmental Research Program.

Tentative Agenda:

- Preparation of final BERAC report based on the charge letter dated February 19, 2014 (*http://science.energy.gov/~/media/ber/berac/pdf/Reports/Workforce_Charge_Letter.pdf*)

Public Participation: The teleconference meeting is open to the public. If you would like to file a written statement with the Committee, you may do so either before or after the meeting. If you would like to make oral statements regarding the item on the agenda, you should contact David Thomassen at the address or telephone number listed above. You must make your request for an oral statement at least five business days before the meeting. Reasonable provision will be made to include the scheduled oral statements on the agenda. The Chairperson of the Committee will conduct the meeting to facilitate the

orderly conduct of business. Public comment will follow the 10-minute rule.

Minutes: The minutes of the meeting will be available for public review and copying within 45 days at the BERAC Web site: *http://science.energy.gov/ber/berac/meetings/berac-minutes/.*

Issued at Washington, DC on May 7, 2014.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2014–11024 Filed 5–12–14; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC14–5–000]

Commission Information Collection Activities (FERC–725D); Comment Request

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Comment request.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507(a)(1)(D), the Federal Energy Regulatory Commission (Commission or FERC) is submitting its information collection FERC–725D (Facilities Design, Connections and Maintenance Reliability Standards) to the Office of Management and Budget (OMB) for review of the information collection requirements. Any interested person may file comments directly with OMB and should address a copy of those comments to the Commission as explained below. The Commission previously issued a Notice in the **Federal Register** (79 FR 11773, 3/3/2014) requesting public comments. The Commission received no comments on the FERC–725D and is making this notation in its submittal to OMB.

DATES: Comments on the collection of information are due by June 12, 2014.

ADDRESSES: Comments filed with OMB, identified by the OMB Control No. 1902–0247, should be sent via email to the Office of Information and Regulatory Affairs: *oira_submission@omb.gov.* Attention: Federal Energy Regulatory Commission Desk Officer. The Desk Officer may also be reached via telephone at 202–395–4718.

A copy of the comments should also be sent to the Commission, in Docket No. IC14–5–000, by either of the following methods:

- eFiling at Commission's Web site: *http://www.ferc.gov/docs-filing/efiling.asp.*
- Mail/Hand Delivery/Courier: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE., Washington, DC 20426.

Instructions: All submissions must be formatted and filed in accordance with submission guidelines at: *http://www.ferc.gov/help/submission-guide.asp.* For user assistance contact FERC Online Support by email at *ferconlinesupport@ferc.gov,* or by phone at: (866) 208–3676 (toll-free), or (202) 502–8659 for TTY.

Docket: Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at *http://www.ferc.gov/docs-filing/docs-filing.asp.*

FOR FURTHER INFORMATION CONTACT: Ellen Brown may be reached by email at *DataClearance@FERC.gov,* by telephone at (202) 502–8663, and by fax at (202) 273–0873.

SUPPLEMENTARY INFORMATION:

Title: Facilities Design, Connections and Maintenance Reliability Standards.

OMB Control No.: 1902–0247.

Type of Request: Three-year extension of the FERC–725D information collection requirements with no changes to the reporting requirements.

Abstract: The Commission requires the FERC–725D information collection to implement the statutory provisions of Section 215 of the Federal Power Act (FPA).[1] On August 8, 2005, the Electricity Modernization Act of 2005 of the Energy Policy Act of 2005 (EPAct 2005), was enacted into law.[2] EPAct 2005 added a new Section 215 to the FPA, which required a Commission-certified Electric Reliability Organization (ERO) to develop mandatory and enforceable reliability standards which are subject to Commission review and approval. Once approved, the reliability standards may be enforced by the ERO subject to Commission oversight or the Commission can independently enforce reliability standards.[3]

On February 3, 2006, the Commission issued Order No. 672, implementing Section 215 of the FPA. Pursuant to Order No. 672, the Commission certified one organization [North American Electric Reliability Council (NERC)] as the ERO. The reliability standards developed by the ERO and approved by the Commission apply to users, owners, and operators of the Bulk-Power System (BPS) as set forth in each reliability standard.

On November 15, 2006, NERC filed 20 revised reliability standards and three new reliability standards for Commission approval. The Commission addressed revisions to the 20 Reliability Standards in Order No. 693. The Commission approved the three new reliability standards on 12/27/2007 in Order No. 705 and NERC designated them as follows:

- FAC–010–1 (System Operating Limits Methodology for the Planning Horizon)
- FAC–011–1 (System Operating Limits Methodology for the Operations Horizon)
- FAC–014–1 (Establish and Communicate System Operating Limits).

Subsequently, NERC modified these standards in April of 2008 and submitted to the Commission for approval. On 3/20/2009 the Commission approved NERC's modifications to the FAC standards in Order No. 722 and NERC now designates these standards as FAC–010–2, FAC–011–2, and FAC–014–2. These three approved FAC reliability standards require planning authorities and reliability coordinators to establish methodologies to determine system operating limits (SOLs) for the bulk-power system in the planning and operation horizons.

The three reliability standards do not require responsible entities to file information with the Commission. Nor, with the exception of a three year self-certification of compliance, do the Reliability Standards require responsible entities to file information with the ERO or Regional Entities. However, the Reliability Standards do require responsible entities to develop and maintain certain information for a specified period of time, subject to inspection by the ERO or Regional Entities.

Reliability standard FAC–010–2 requires the planning authority to have a documented methodology for use in developing SOLs and must retain evidence that it issued its SOL methodology to relevant reliability coordinators, transmission operators and adjacent planning authorities. Further, each planning authority must self-certify its compliance to the compliance monitor once every three years. Reliability standard FAC–011–2 requires similar documentation by the reliability coordinator. Reliability standard FAC–014–2 requires the reliability coordinator, planning

[1] 16 U.S.C. 842o.

[2] Energy Policy Act of 2005, Public Law 109–58, Title XII, Subtitle A, 119 Stat. 594, 941 (2005), 16 U.S.C. 824o.

[3] 16 U.S.C. 824o(e)(3).

authority, transmission operator, and transmission planner to verify compliance through self-certification submitted to the compliance monitor annually. These entities must also document that they have developed SOLs consistent with the applicable SOL methodology and that they have provided SOLs to entities identified in Requirement 5 of the reliability standard. Further, the planning authority must maintain a list of multiple contingencies and their associated stability limits.

Type of Respondents: Planning authorities, reliability coordinators, transmission planners, and transmission operators.

Estimate of Annual Burden: [4] The Commission estimates the annual public reporting burden for the information collection as:

FERC–725D: (MANDATORY RELIABILITY STANDARDS: FAC (FACILITIES, DESIGN, CONNECTIONS, AND MAINTENANCE)

	Number of respondents (1)	Annual number of responses per respondent (2)	Total number of responses (1)*(2)=(3)	Average burden hours & cost per response [5] (4)	Total annual burden hours & total annual cost [6] (3)*(4)=(5)	Average annual cost per respondent (5)÷(1)
Annual Reporting	470	1	470	295.7 $20,992	138,980 $9,866,240	$20,992

Comments: Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: May 6, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–10880 Filed 5–12–14; 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: EC14–83–000.

Applicants: Nevada Power Company, Nevada Sun-Peak Limited Partnership.

Description: Nevada Power Company and Nevada Sun-Peak Limited Partnership Section 203 Application.

Filed Date: 5/2/14.

Accession Number: 20140502–5246.

Comments Due: 5 p.m. ET 5/23/14.

Docket Numbers: EC14–84–000.

Applicants: Nevada Power Company, Las Vegas Cogeneration LP, Las Vegas Cogeneration II, LLC.

Description: Nevada Power Company, Las Vegas Cogeneration Limited Partnership, et al Section 203 Application.

Filed Date: 5/2/14.

Accession Number: 20140502–5253.

Comments Due: 5 p.m. ET 5/23/14.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–1569–009; ER10–2361–002; ER10–2575–002; ER10–2381–002; ER10–2947–008; ER10–2369–002; ER10–2360–002; ER10–2359–002; ER11–2857–013; ER10–2358–002; ER13–2050–004; ER13–2020–004; ER13–2107–004; ER10–2357–002; ER10–2356–002; ER11–2856–013; ER10–2382–002; ER10–1580–011; ER10–3143–011; ER12–21–014; ER10–2783–008; ER10–2784–008; ER11–2855–013; ER10–2791–009; ER10–2333–002; ER14–1865–001; ER10–2792–009; ER14–1818–001; ER12–1238–00; ER10–1564–009; ER10–1565–009; ER10–2337–003; ER10–2795–008; ER10–2798–008; ER10–1575–007; ER10–2339–003; ER10–2338–003; ER10–2340–003; ER12–1239–002; ER10–2336–002; ER10–2335–002; ER10–2799–008; ER10–2801–008; ER10–2385–002; ER11–3727–009; ER10–1566–009; ER12–2413–007; ER11–2062–010; ER10–2346–002; ER10–2812–007; ER10–1291–011; ER10–2843–006; ER11–2508–009; ER11–2683–001; ER11–2805–009; ER11–4308–010; ER11–4351–003; ER10–2969–008; ER13–1965–004; ER10–2931–009; ER11–3459–008; ER11–4307–010; ER10–2347–002; ER10–2348–002; ER12–1711–009; ER10–2350–002; ER10–2846–008; ER12–261–009; ER10–2871–006; ER10–2351–002; ER10–2875–008; ER12–2398–008; ER10–1582–008; ER12–2019–008; ER12–1525–009; ER10–2915–008; ER10–2916–008; ER13–1802–003; ER13–1801–003; ER13–1799–003; ER10–2368–002; ER10–2352–002; ER10–1568–009; ER10–1581–011; ER10–2353–002; ER10–2876–009; ER10–2878–008; ER10–2354–003; ER10–2355–003; ER10–2914–010; ER13–1746–006; ER13–1791–003; ER10–2913–008; ER10–2896–008; ER13–1790–005; ER13–1789–003; ER10–2879–008; ER10–2384–003; ER10–2383–003; ER10–2880–008.

Applicants: NRG Power Marketing LLC, Agua Caliente Solar, LLC, Arthur Kill Power LLC, Astoria Gas Turbine Power LLC, Avenal Park LLC, Bayou Cove Peaking Power, LLC, Bendwind, LLC, BETM Solutions LLC, Big Cajun I Peaking Power LLC, Boston Energy Trading and Marketing LLC, Broken Bow Wind, LLC, Cabrillo Power I LLC, Cabrillo Power II LLC, CL Power Sales Eight, L.L.C., Conemaugh Power LLC,

[4] The Commission defines burden as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. For further explanation of what is included in the information collection burden, reference 5 Code of Federal Regulations 1320.3.

[5] The estimate for cost per response is derived using the following formula: Total Annual Cost (Column 5) ÷ Total Number of Responses (Column 3) = Average Cost per Response.

[6] The total annual cost is derived from salary figures from the Bureau of Labor Statistics for two positions involved in the reporting and record-keeping associated with this collection. These figures include salary (*http://bls.gov/oes/current/naics2_22.htm*) and other associated benefits (*http://www.bls.gov/news.release/ecec.nr0.htm*):

- Manager: $82.36/hour
- Engineer: $59.62/hour

This results in an average hourly wage of $70.99. 138,980 hours (total annual burden) * $70.99/hour = $9,866,240.

Connecticut Jet Power LLC, Cottonwood Energy Company LP, CP Power Sales Seventeen, L.L.C., CP Power Sales Nineteen, L.L.C., CP Power Sales Twenty, L.L.C., Crofton Bluffs Wind, LLC, DeGreeff DP, LLC, DeGreeffpa, LLC, Devon Power LLC, Dunkirk Power LLC, Elkhorn Ridge Wind, LLC, El Segundo Energy Center LLC, El Segundo Power, LLC, Energy Alternatives Wholesale, LLC, Energy Plus Holdings LLC, Forward WindPower, LLC, GenConn Devon LLC, GenConn Energy LLC, GenConn Middletown LLC, GenOn Energy Management, LLC, GenOn Mid-Atlantic, LLC, Green Mountain Energy Company, Groen Wind, LLC, High Lonesome Mesa, LLC, High Plains Ranch II, LLC, Hillcrest Wind, LLC, Huntley Power LLC, Independence Energy Group LLC, Indian River Power LLC, Jeffers Wind 20, LLC, Keystone Power LLC, Laredo Ridge Wind, LLC, Larswind, LLC, Long Beach Generation LLC, Long Beach Peakers LLC, Lookout WindPower, LLC, Louisiana Generating LLC, Middletown Power LLC, Midway-Sunset Cogeneration Company, Midwest Generation LLC, Montville Power LLC, Mountain Wind Power, LLC, Mountain Wind Power II, LLC, NEO Freehold-Gen LLC, North Community Turbines LLC, North Wind Turbines LLC, Norwalk Power LLC, NRG Bowline, LLC, NRG California South LP, NRG Canal LLC, NRG Chalk Point LLC, NRG Delta LLC, NRG Energy Center Dover LLC, NRG Energy Center Paxton LLC, NRG Florida LP, NRG Marsh Landing LLC, NRG New Jersey Energy Sales LLC, NRG Potomac River LLC, NRG Power Midwest LP, NRG REMA LLC, NRG Rockford LLC, NRG Rockford II LLC, NRG Solar Alpine LLC, NRG Solar Avra Valley LLC, NRG Solar Blythe LLC, NRG Solar Borrego I LLC, NRG Solar Roadrunner LLC, NRG Sterlington Power LLC, NRG Wholesale Generation LP, Oswego Harbor Power LLC, Pinnacle Wind, LLC, Reliant Energy Northeast LLC, RRI Energy Services, LLC, Sabine Cogen, LP, Saguaro Power Company, a Limited Partnership, San Juan Mesa Wind Project, LLC, Sand Drag LLC, Sierra Wind, LLC, Sleeping Bear, LLC, Solar Partners I, LLC, Solar Partners II, LLC, Solar Partners VIII, LLC, Storm Lake Power Partners I LLC, Sun City Project, Sunrise Power Company, LLC, TAIR Windfarm, LLC, Taloga Wind, LLC, Vienna Power LLC, Walnut Creek Energy, LLC, Watson Cogeneration Company, Wildorado Wind, LLC.

Description: Notice of Non-Material Change in Status of NRG MBR Entities.

Filed Date: 5/1/14.

Accession Number: 20140501–5439.

Comments Due: 5 p.m. ET 5/22/14.

Docket Numbers: ER10–1851–003, ER10–1976–004; ER10–1966–004; ER10–1985–004; ER11–4462–006; ER10–1971–013; ER10–1930–003; ER10–1931–004; ER12–2225–003; ER12–2226–003.

Applicants: ESI Vansycle Partners, L.P., FPL Energy Stateline II, Inc., FPL Energy Vansycle, L.L.C., Limon Wind, LLC, Limon Wind II, LLC, Logan Wind Energy LLC, Northern Colorado Wind Energy, Peetz Table Wind Energy, LLC, NextEra Energy Power Marketing, NEPM II, LLC.

Description: Supplement to December 23, 2013 Triennial Market Power Update for Northwest Region of the NextEra Companies.

Filed Date: 5/1/14.

Accession Number: 20140501–5405.

Comments Due: 5 p.m. ET 5/22/14.

Docket Numbers: ER11–3376–002; ER11–3377–002; ER11–3378–002.

Applicants: North Hurlburt Wind, LLC, Horseshoe Bend Wind, LLC, South Hurlburt Wind, LLC.

Description: Amendment to March 7, 2014 Trienniel Updated Market Power Analysis of Horseshoe Bend Wind, LLC, North Hurlburt Wind, LLC and South Hurlburt Wind, LLC and Request for Shortened Comment Period.

Filed Date: 4/21/14.

Accession Number: 20140421–5124.

Comments Due: 5 p.m. ET 5/12/14.

Docket Numbers: ER14–1865–000.

Applicants: BETM Solutions LLC.

Description: Notice of Succession and Revisions to Market-Based Rate Tariff to be effective 5/3/2014.

Filed Date: 5/2/14.

Accession Number: 20140502–5212.

Comments Due: 5 p.m. ET 5/23/14.

Docket Numbers: ER14–1866–000.

Applicants: CL Power Sales Eight, L.L.C.

Description: Revised Market-Based Rate Tariff to be effective 5/3/2014.

Filed Date: 5/2/14.

Accession Number: 20140502–5213.

Comments Due: 5 p.m. ET 5/23/14.

Docket Numbers: ER14–1867–000.

Applicants: Larswind, LLC.

Description: Revised Market-Based Rate Tariff to be effective 5/3/2014.

Filed Date: 5/2/14.

Accession Number: 20140502–5214.

Comments Due: 5 p.m. ET 5/23/14.

Docket Numbers: ER14–1868–000.

Applicants: New York Independent System Operator, Inc.

Description: NYISO 205 OATT revisions re: M2M coordination process when NY is in storm watch to be effective 6/11/2014.

Filed Date: 5/2/14.

Accession Number: 20140502–5217.

Comments Due: 5 p.m. ET 5/23/14.

Docket Numbers: ER14–1869–000.

Applicants: Lookout WindPower LLC.

Description: Revised Market-Based Rate Tariff to be effective 5/3/2014.

Filed Date: 5/2/14.

Accession Number: 20140502–5218.

Comments Due: 5 p.m. ET 5/23/14.

Docket Numbers: ER14–1870–000.

Applicants: Pinnacle Wind, LLC.

Description: Revised Market-Based Rate Tariff to be effective 5/3/2014.

Filed Date: 5/2/14.

Accession Number: 20140502–5224.

Comments Due: 5 p.m. ET 5/23/14.

Docket Numbers: ER14–1871–000.

Applicants: Sierra Wind, LLC.

Description: Revised Market-Based Rate Tariff to be effective 5/3/2014.

Filed Date: 5/2/14.

Accession Number: 20140502–5225.

Comments Due: 5 p.m. ET 5/23/14.

Docket Numbers: ER14–1872–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: 2014–05–02_SA 2650 METC E&P Agreement to be effective 5/3/2014.

Filed Date: 5/2/14.

Accession Number: 20140502–5232.

Comments Due: 5 p.m. ET 5/23/14.

Docket Numbers: ER14–1873–000.

Applicants: Dominion Energy Marketing, Inc.

Description: Compliance Filing—DEMI et al. MBR Tariff BD Waiver to be effective 5/3/2014.

Filed Date: 5/2/14.

Accession Number: 20140502–5236.

Comments Due: 5 p.m. ET 5/23/14.

Docket Numbers: ER14–1874–000.

Applicants: NedPower Mount Storm, LLC.

Description: Compliance Filing—NedPower MBR Tariff Bus. Development Waiver to be effective 5/3/2014.

Filed Date: 5/5/14.

Accession Number: 20140505–5000.

Comments Due: 5 p.m. ET 5/27/14.

Docket Numbers: ER14–1875–000.

Applicants: Fowler Ridge Wind Farm LLC.

Description: Compliance Filing—Fowler MBR Tariff Bus. Development Waiver to be effective 5/3/2014.

Filed Date: 5/5/14.

Accession Number: 20140505–5001.

Comments Due: 5 p.m. ET 5/27/14.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and

385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: May 5, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–10879 Filed 5–12–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER13–821–005.
Applicants: Scrubgrass Generating Company, L.P.
Description: Notice of Non-Material Change in Status of Scrubgrass Generating Company, L.P.
Filed Date: 5/5/14.
Accession Number: 20140505–5200.
Comments Due: 5 p.m. ET 5/27/14.

Docket Numbers: ER13–2301–002.
Applicants: Dominion Energy Marketing, Inc.
Description: Compliance Filing—Supplement to Amdmt of April 21 to be effective 10/1/2013.
Filed Date: 5/5/14.
Accession Number: 20140505–5148.
Comments Due: 5 p.m. ET 5/15/14.

Docket Numbers: ER14–1876–000.
Applicants: Arizona Public Service Company.
Description: Service Agreement No. 331—Letter Agreement with IID—Yucca Power Plant to be effective 9/1/2010.
Filed Date: 5/5/14.
Accession Number: 20140505–5137.
Comments Due: 5 p.m. ET 5/27/14.

Docket Numbers: ER14–1877–000.
Applicants: Entergy Arkansas, Inc.
Description: Entergy Arkansas, Inc. submits Notices of Cancellation of power coordination and interchange agreements.
Filed Date: 5/5/14.
Accession Number: 20140505–5197.
Comments Due: 5 p.m. ET 5/27/14.

Docket Numbers: ER14–1878–000.
Applicants: Allegheny Energy Supply Company, LLC.
Description: Allegheny Energy Supply Co., LLC Reactive Power Rate Schedule FERC No. 2 to be effective 12/31/9998.
Filed Date: 5/5/14.
Accession Number: 20140505–5220
Comments Due: 5 p.m. ET 5/27/14.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: May 5, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–10882 Filed 5–12–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER14–1858–000]

Consolidated Power Co., LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Consolidated Power Co., LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability, is May 27, 2014.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: May 6, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–10883 Filed 5–12–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Sunshine Act Meeting Notice

The following notice of meeting is published pursuant to section 3(a) of the government in the Sunshine Act (Pub. L. 94–409), 5 U.S.C. 552b:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

DATE AND TIME: May 15, 2014 10:00 a.m.

PLACE: Room 2C, 888 First Street, NE., Washington, DC 20426.

STATUS: OPEN.

MATTERS TO BE CONSIDERED: Agenda.

* NOTE—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kimberly D. Bose, Secretary, Telephone (202) 502–8400.

For a recorded message listing items struck from or added to the meeting, call (202) 502–8627.

This is a list of matters to be considered by the Commission. It does not include a listing of all documents relevant to the items on the agenda. All public documents, however, may be viewed on line at the Commission's Web site at *http://www.ferc.gov* using the eLibrary link, or may be examined in the Commission's Public Reference Room.

1005TH—MEETING

[Regular meeting, May 15, 2014, 10:00 a.m.]

Item No.	Docket No.	Company
	Administrative	
A–1	AD02–1–000	Agency Business Matters.
A–2	AD02–7–000	Customer Matters, Reliability, Security and Market Operations.
A–3	AD05–9–000	Energy Market and Reliability Assessment.
	Electric	
E–1	ER13–107–003	South Carolina Electric & Gas Company.
	ER13–107–005.	
E–2	ER13–187–002	Midwest Independent Transmission System Operator, Inc. and the MISO Transmission Owners.
	ER13–187–003 ER13–187–004.	
	ER13–186–001.	
	ER13–89–001	MidAmerican Energy Company and Midwest Independent Transmission System Operator, Inc.
	ER13–89–002.	
	ER13–101–002	American Transmission Company LLC and Midwest Independent Transmission System Operator, Inc.
	ER13–101–003.	
	ER13–84–001	Cleco Power LLC.
	ER13–95–001	Entergy Arkansas, Inc.
E–3	ER13–198–001	PJM Interconnection, L.L.C.
	ER13–198–002.	
	ER13–195–001	Indicated PJM Transmission Owners.
	ER13–90–001	PJM Interconnection, L.L.C. and Public Service Electric and Gas Company.
	ER13–90–002.	
E–4	ER13–85–001	Maine Public Service Company.
	ER13–85–002.	
	ER13–1909–000.	
E–5	ER11–2127–003	Terra-Gen Dixie Valley, LLC.
	ER11–2127–004.	
	EL11–37–001.	
	EL10–29–003	Terra-Gen Dixie Valley, LLC, TGP Dixie Development Company, LLC and New York Canyon, LLC.
	EL10–36–003	Green Borders Geothermal, LLC v. Terra-Gen Dixie Valley, LLC.
E–6	RM14–11–000	Open Access and Priority Rights on Interconnection Customer's Interconnection Facilities.
E–7	TX11–1–001	Southern Cross Transmission LLC and Pattern Power Marketing LLC.
E–8	EL14–9–000	Gregory and Beverly Swecker v. Midland Power Cooperative.
	QF11–424–002.	
	EL14–18–000	Gregory and Beverly Swecker v. Midland Power Cooperative and Central Iowa Power Cooperative.
	Miscellaneous	
M–1	RM01–5–001	Electronic Tariff Filings.
M–2	IN13–15–000	BP America Inc.
	BP Corporation North America Inc..	
	BP America Production Company..	
	BP Energy Company..	
G–1	OR14–21–000	North Dakota Pipeline Company LLC.
G–2	RP14–393–000	Columbia Gas Transmission, LLC.
G–3	RP12–514–002	Tennessee Gas Pipeline Company, L.L.C.
	RP11–1566–014.	
	RP11–2066–003.	
	Hydro	
H–1	P–6618–007	Christopher M. Anthony.
H–2	OMITTED.	
H–3	P–1290–013	Appalachian Power Company.

1005TH—MEETING—Continued

[Regular meeting, May 15, 2014, 10:00 a.m.]

Item No.	Docket No.	Company
	Certificates	
C–1	CP13–83–000	Arlington Storage Company, LLC.

Issued: May 8, 2014.

Kimberly D. Bose,

Secretary.

A free webcast of this event is available through *www.ferc.gov*. Anyone with Internet access who desires to view this event can do so by navigating to *www.ferc.gov's* Calendar of Events and locating this event in the Calendar. The event will contain a link to its webcast. The Capitol Connection provides technical support for the free webcasts. It also offers access to this event via television in the DC area and via phone bridge for a fee. If you have any questions, visit *www.CapitolConnection.org* or contact Danelle Springer or David Reininger at 703–993–3100.

Immediately following the conclusion of the Commission Meeting, a press briefing will be held in the Commission Meeting Room. Members of the public may view this briefing in the designated overflow room. This statement is intended to notify the public that the press briefings that follow Commission meetings may now be viewed remotely at Commission headquarters, but will not be telecast through the Capitol Connection service.

[FR Doc. 2014–11011 Filed 5–9–14; 11:15 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14586–000]

James R. Robertson, PE; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On February 10, 2014, James R. Robertson, PE, filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of hydropower at the U.S. Army Corps of Engineers' (Corps) Sutton Dam, on the Elk River, in Sutton, Braxton County, West Virginia. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed Sutton Hydroelectric Power Project would consist of the following: (1) A new 80-foot-long by 40-foot-wide powerhouse containing three generating units with a total installed capacity of 9.2 megawatts; (2) a new multiple-port intake structure to be located at the upstream face of the Sutton dam; (3) a new 12-foot-diameter, 300-foot-long steel penstock; (4) a new 70-foot-long by 30-foot-wide switchyard; (5) a new 138-kilovolt, 4,000-foot-long transmission line; and (6) appurtenant facilities. The estimated annual generation of the proposed project would be 36 gigawatt-hours.

Applicant Contact: James R. Robertson, PE, 5702 Reno Court, Boonsboro, MD 21713; phone: (240) 405–5667.

FERC Contact: Monir Chowdhury; phone: (202) 502–6736.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, notices of intent, and competing applications using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp*.

Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp*. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–14586–000.

More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of the Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp*. Enter the docket number (P–14586) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: May 6, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–10881 Filed 5–12–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14587–000]

Vortex Hydro Energy; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On February 21, 2014, Vortex Hydro Energy filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the St. Clair River Hydrokinetic (St. Clair River Project or project) to be located on St. Clair River, in the city of Port Huron, St. Clair County, Michigan. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would consist of the following: (1) Three new 20-foot-long by 32-foot-wide by 27-foot-high oscylators, each containing four horizontal cylinders with a combined nameplate capacity of 33 kilowatts (kW), for a project total of 100 kW of installed capacity; (2) twelve 10-kW generator units; (3) a traditional direct current to alternating current inverter for power connection to the grid; (4) three 500-foot-long, 1-kilovolt (kV) to 3-

kV underwater transmission lines; and (5) appurtenant facilities. The estimated annual generation of the St. Clair River Project would be 840 megawatt-hours.

Applicant Contact: Michael M. Bernitsas, Vortex Hydro Energy, 330 East Liberty, Lower Level, Ann Arber, MI 48104; phone: (734) 253–2451.

FERC Contact: Tyrone A. Williams; phone: (202) 502–6331, email: *tyrone.williams@ferc.gov*.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36. The Commission strongly encourages electronic filing. Please file comments, motions to intervene, notices of intent, and competing applications using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp*.

Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp*. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–14587–000.

More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp*. Enter the docket number (P–14587) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: May 6, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–10884 Filed 5–12–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Western Area Power Administration

Loveland Area Projects, Colorado River Storage Project, Pacific Northwest-Pacific Southwest Intertie Project, Central Arizona Project, and Parker-Davis Project—Rate Order No. WAPA–163

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of Order Concerning Formula Rates for Western Area Power Administration (Western) Transmission Projects to use under the WestConnect Point-to-Point Regional Transmission Service Participation Agreement (PA).

SUMMARY: The Deputy Secretary of Energy confirmed and approved Rate Order No. WAPA–163 and Rate Schedule WC–8, placing new hourly, non-firm, point-to-point transmission service formula rates for the Loveland Area Projects (LAP), Colorado River Storage Project (CRSP), Pacific Northwest-Pacific Southwest Intertie Project (INT), Central Arizona Project (CAP), and Parker-Davis Project (P–DP) in use under WestConnect's PA into effect on an interim basis.

DATES: The provisional rates under Rate Schedule WC–8 will be placed into effect on an interim basis on the first day of the first full billing period beginning on or after June 1, 2014.

FOR FURTHER INFORMATION CONTACT: Ms. Lynn C. Jeka, CRSP Manager, Colorado River Storage Project Management Center, 150 East Social Hall Avenue, Suite 300, Salt Lake City, UT 84111–1580, telephone (801) 524–6372; or Mr. Thomas Hackett, Rates Team Lead, Colorado River Storage Project Management Center, 150 East Social Hall Avenue, Suite 300, Salt Lake City, UT 84111–1580, telephone (801) 524–5503; or email *WestConnect@wapa.gov*.

SUPPLEMENTARY INFORMATION: WestConnect consists of a group of electric utilities currently providing transmission service in the Western Interconnection. Its members are a mixture of investor- and consumer-owned utilities and Western. The WestConnect membership encompasses an interconnected grid stretching from western Nebraska to southern California and from Wyoming to the United States-Mexico border. In June 2009, Western began participating in the WestConnect Pricing Experiment (Experiment), which offered potential customers the option of scheduling a single transaction for hourly, non-firm, point-to-point transmission service over multiple transmission providers' systems at a single rate. The original term of the Experiment was 2 years and expired on June 30, 2011. In 2011, WestConnect filed with the Federal Energy Regulatory Commission (FERC) to extend the term of the Experiment for 2 additional years, until June 30, 2013.

To participate in the Experiment, Western converted its ''all-hours,'' non-firm, point-to-point, formula transmission rates into on-peak and off-peak rates, similar to other Experiment participants. Western established these on-peak and off-peak rates for the Experiment on an annual basis using the authority granted to Western's Administrator in Delegation Order No. 00–037.00 and Delegation Order No. 00–037.00A to set rates for short-term sales.

On April 16, 2013, WestConnect submitted to FERC an Amended and Restated PA that offers the coordinated hourly, non-firm, point-to-point transmission service on a permanent basis, effective July 1, 2013. On June 28, 2013, FERC issued an order conditionally accepting the PA and regional tariffs. In its order, FERC stated it was approving the proposal based on voluntary participation, and any customer that does not want to take service under the WestConnect Tariff provision may continue to take service under standard tariff provisions.

Since the PA is now offering this coordinated, hourly, non-firm, point-to-point transmission service on a permanent basis, Western proposed to establish a permanent rate schedule for hourly, non-firm, point-to-point transmission for on-peak and off-peak hours for the WestConnect transmission product (78 FR 66695, Nov. 6, 2013).

By Delegation Order No. 00–037.00A, effective October 25, 2013, the Secretary of Energy delegated: (1) The authority to develop power and transmission rates to Western's Administrator; (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary of Energy; and (3) the authority to confirm, approve, and place into effect on a final basis, to remand, or to disapprove such rates to FERC. Existing Department of Energy procedures for public participation in power rate adjustments (10 CFR part 903) were published on September 18, 1985.

Under Delegation Order Nos. 00–037.00A and 00–001.00E and in compliance with 10 CFR part 903 and 18 CFR part 300, I hereby confirm, approve, and place Rate Order No. WAPA–163, the provisional formula rates for hourly, non-firm, point-to-point transmission service, into effect on an interim basis. The new Rate Schedule WC–8 will be promptly submitted to

FERC for confirmation and approval on a final basis. The interim rates will be in effect until FERC confirms, approves, and places the rate schedule in effect on a final basis through May 31, 2019, unless Western withdraws from the WestConnect PA, and posts notice of such withdrawal on the Open Access Same-Time Information System (OASIS), prior to May 31, 2019.

Dated: May 6, 2014.

Daniel B. Poneman,

Deputy Secretary.

DEPARTMENT OF ENERGY

DEPUTY SECRETARY

In the matter of:

Western Area Power Administration)
Rate Adjustment for the)
Loveland Area Projects)
Colorado River Storage Project)
Pacific Northwest-Pacific Southwest Intertie Project)
Central Arizona Project)
Parker-Davis Project)
Rate Order No. WAPA–163

ORDER CONFIRMING, APPROVING, AND PLACING THE WESTERN AREA POWER ADMINISTRATION'S TRANSMISSION SERVICE FORMULA RATES FOR USE UNDER THE WESTCONNECT PARTICIPATION AGREEMENT INTO EFFECT ON AN INTERIM BASIS

These transmission service formula rates are established pursuant to Section 302 of the Department of Energy (DOE) Organization Act (42 U.S.C. 7152). This Act transferred to and vested in the Secretary of Energy the power marketing functions of the Secretary of the Department of the Interior and the Bureau of Reclamation (Reclamation) under the Reclamation Act of 1902 (ch. 1093, 32 Stat. 388), as amended and supplemented by subsequent laws, particularly section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)) and section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s); and other acts that specifically apply to the projects involved.

By Delegation Order No. 00–037.00A, effective October 25, 2013, the Secretary of Energy delegated: (1) the authority to develop power and transmission rates to Western Area Power Administration's (Western) Administrator; (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary of Energy; and (3) the authority to confirm, approve, and place into effect on a final basis, to remand or to disapprove such rates to the Federal Energy Regulatory Commission (FERC). Existing DOE procedures for public participation in power rate adjustments (10 CFR part 903) were published on September 18, 1985.

Acronyms/Terms and Definitions

As used in this Rate Order, the following acronyms/terms and definitions apply:

Experiment:	WestConnect's Pricing Experiment offers customers the option of purchasing point-to-point transmission service across multiple Transmission Providers' systems at a single regional rate, as an alternative to point-to-point service with pancaked rates currently offered under the individual open access transmission tariffs.
Formula Rates:	Formula rates use a series of calculations to produce an annual revenue requirement. This is the transmission owner's FERC-approved, filed rate, which can change from year to year. This obviates the need for transmission owners to file traditional rate cases at set intervals and prevents regulatory lag.
Open Access Same-Time Information System (OASIS):.	An electronic posting system that the TransmissionProvider maintains for transmission access data that allows all transmission customers to view the data simultaneously.
Provisional Formula Rate:	A formula rate which has been confirmed, approved, and placed into effect on an interim basis by the Deputy Secretary.
Tariff:	Western Area Power Administration's Open Access Transmission Service Tariff.
Transmission Provider:	An entity that administers a transmission tariff and provides transmission service to Transmission Customers under applicable transmission service agreements.
WestConnect PA:	WestConnect's Point-to-Point Regional Transmission Service Participation Agreement.

Effective Date

The Provisional Formula Rates will take effect on the first day of the first full billing period beginning on or after June 1, 2014.

Public Notice and Comment

Western has followed the Procedures for Public Participation in Power and Transmission Rate Adjustments and Extensions, 10 CFR part 903, in the development of these formula rates and rate schedule. The steps Western took to involve interested parties in the rate process were:

1. Western published a **Federal Register** notice on November 6, 2013 (78 FR 66695), officially announcing the proposed formula transmission rates, initiating the public comment period that ended December 6, 2013, and outlining procedures for public participation.
2. On November 15, 2013, Western emailed a copy of the published **Federal Register** notice to Loveland Area Projects (LAP), Colorado River Storage Project (CRSP), Pacific Northwest-Pacific Southwest Intertie Project (INT), Central Arizona Project (CAP), and Parker-Davis Project (P–DP) transmission customers and interested parties. Additionally, the link to Western's Web site was provided, which contains the WestConnect Rate Conversion Table.
3. Written comments were received from the Arizona Municipal Power Users' Association, Phoenix, Arizona, and the Irrigation & Electrical Districts Association of Arizona, Phoenix, Arizona, during the consultation-and-comment period. These comments are addressed below.

All comments received have been considered in the preparation of this Rate Order.

Description

WestConnect consists of a group of electric utilities currently providing transmission service in the Western Interconnection. Its members are a mixture of investor- and consumer-owned utilities and Western. The WestConnect membership encompasses an interconnected grid stretching from western Nebraska to southern California and from Wyoming to the United States-Mexico border. Western began participating in the Experiment in June 2009, which offered potential customers the option of scheduling a single transaction for hourly, non-firm, point-to-point transmission service over multiple transmission providers' systems at a single rate. The original term of the Experiment was 2 years and expired on June 30, 2011. In 2011, WestConnect filed with FERC to extend the term of the Experiment for 2 additional years, until June 30, 2013.

To participate in the Experiment, Western had to convert its ''all-hours,'' non-firm, point-to-point formula transmission rates into on-peak and off-peak rates similar to other Experiment participants. Western's FERC-approved Tariff transmission rate designs for all regions yield an ''all-hours'' transmission rate that does not make a rate distinction between on-peak and off-peak, but rather spreads the annual revenue requirements over all hours of the year. Western established on-peak and off-peak rates for the Experiment using the authority granted to Western's Administrator in Delegation Order No. 00–037.00 and, subsequently, Delegation Order No. 00–037.00A to set rates for short-term sales.

On April 16, 2013, WestConnect submitted to FERC an Amended and Restated PA that offers the coordinated hourly, non-firm, point-to-point transmission service at a single rate on a permanent basis, effective July 1, 2013. On June 28, 2013, FERC issued an order conditionally accepting the PA and regional tariffs. In its order, FERC stated it was approving the proposal based on voluntary participation and any customer that does not want to take service under the WestConnect tariff provision may continue to take service under standard tariff provisions.

Formula Rate for Transmission Service under WestConnect PA

Since the PA is now offering a coordinated, hourly, non-firm, point-to-point transmission service on a permanent basis, Western established a permanent rate schedule (Rate Schedule WC–8) for hourly, non-firm, point-to-point transmission for on-peak and off-peak hours for the WestConnect transmission product. The single rate schedule with separate project rates, which applies to the applicable Western Transmission Projects, is effective June 1, 2014. The interim rates will be in effect until FERC confirms, approves, and places the rate schedule in effect on a final basis through May 31, 2019, unless Western withdraws from the WestConnect PA, and posts notice of such withdrawal on the OASIS, prior to May 31, 2019. Rate Schedule WC–8 establishes a conversion factor that is applied to the existing Transmission Provider's non-firm transmission service formula rates, which have been established under separate rate schedules and under separate rate orders (Rate Schedule SP–NFT6 under No. WAPA–161; L–NFPT1 under No. WAPA–155; INT–NFT3 under No. WAPA–157; CAP–NFT2 under No. WAPA–158; and PD–NFT7 under No. WAPA–138) in order to convert Western's ''all-hours'' transmission rates to on-peak and off-peak transmission rates.

Certification of Rates

Western's Administrator certified that the Provisional Formula Rates for transmission service under WestConnect's PA in Rate Schedule WC–8 are the lowest possible rates consistent with sound business principles. The Provisional Formula Rates were developed following administrative policies and applicable laws.

Comments

Western received two comment letters during the public consultation-and-comment period. The comments expressed in these letters have been paraphrased, where appropriate, without compromising the meaning of the comments.

Comment: A commenter expressed concern about the fact that only 8 of 18 WestConnect participants are part of the WestConnect PA, and the lack of participation should caution Western's continued participation.

Response: It is accurate that of the 18 members of WestConnect, only 8, including Western, have executed the PA. However, those eight entities have been participating since the inception of the Experiment in July 2009, and these are the only WestConnect members operating contiguous transmission systems that create a rate pancake for customers that may want or need to move across multiple systems.

Additionally, the PA executed by Western and the other entities allows Western to withdraw at any time due to the occurrence or material risk of adverse regulatory action, such as subjecting its rates to review under the Federal Power Act (FPA), or to withdraw in 90-days by written notice for any reason. Therefore, Western has determined its continued participation is warranted at this time.

Comment: A commenter noted the pending litigation in the Court of Appeals for the District of Columbia regarding FERC Order 1000 and surmised that the outcome of the litigation will determine the level of risk Western and other non-jurisdictional utilities might have in dealing with WestConnect. Thus, the commenter stated Western should wait until the outcome of the pending litigation to make a decision about making rates used for the WestConnect PA a permanent offering.

Response: The litigation referred to by the commenter generally concerns the authority of FERC to mandate regional planning and mandatory cost allocation under FERC Order 1000. It has no relevance to WestConnect's PA and the efforts to reduce transmission rate pancaking. A transmission provider choosing to participate in the WestConnect transmission pricing methodology does not increase its risk of ultimately falling under the requirements of FERC Order 1000. Further, prior to beginning the Experiment, the participants sought a declaratory order from FERC confirming that the proposal was structured in such a way that the rates, revenue requirements, and costs of non-jurisdictional participants would not become subject to FERC review. In response, on September 18, 2008, FERC issued a declaratory order agreeing that participation by the non-jurisdictional participants in the proposal would not subject their rates, revenue requirements, or costs to review under FPA sections 205 or 206.[1] Also, the June 2013 approval by FERC of the WestConnect PA specifically acknowledged it is based on voluntary participation and that customers not wishing to take service under the WestConnect tariff could continue to take service under each Transmission Provider's standard tariff provisions. Therefore, the pending litigation referenced by the commenter provides no basis for Western to delay this rate process.

Comment: A commenter stated the proposed rate filing would result in cross-subsidization among the projects.

Response: It is not accurate to assume there will be cross-subsidies among the projects simply by virtue of the development of Rate Schedule WC–8. Although Western is publishing a single rate schedule for WestConnect transactions, the rate schedule points back to the transmission rate schedule for each individual project. The rates for each of Western's transmission projects will continue to be developed individually in a public process, just as they are now, and will continue to maintain separate rate schedules. Revenues from one project will not in any way be transferred to or used to cover the costs of another project as a result of Western establishing Rate Schedule WC–8. The rate order will take Western's publically-developed, non-firm, point-to-point transmission rates and convert these into on-peak and off-peak rates only for purposes of the PA. This effort does not set a single rate across multiple Western projects, nor will it change in any way how Western's

[1] Docket No. EL08–68 (124 FERC ¶ 62,240).

existing formula transmission rates are structured for any of the projects. For WestConnect transactions crossing multiple transmission systems, all are electronically tagged in such a way that each project gets the appropriate share of revenue from each transaction based on the pricing of all the transmission providers in a given transaction. This ensures that revenues are assigned to the appropriate project.

Comment: Comments were received questioning Western's use of a ''minor rate adjustment'' process, including Western's failure to hold public information and/or comment forums.

Response: The administrative processes followed by Western in establishing power and transmission rates are set out in 10 CFR part 903. Section 903.2(f) defines a ''minor rate adjustment'' as one that will (1) produce less than 1 percent change in the annual revenues of the power system, or (2) is for a power system which has either annual sales normally less than 100 million kilowatt-hours or an installed capacity of less than 20,000 kilowatts. Western began participating in the WestConnect Experiment upon its inception in July 2009 and notified customers and interested parties. The pricing experiment uses segments of five Western transmission systems (CAP, CRSP, INT, LAP, and P–DP). Since that time, the total Western revenues received from WestConnect transactions consistently meet the less than 1 percent change in annual revenues threshold. Western followed the requirements of a minor rate adjustment by allowing for a 30-day consultation-and-comment period, as outlined in 10 CFR part 903.14.

Comment: Comments were received questioning Western's use of formula rates in this effort.

Response: The rate-setting regulation followed by Western, 10 CFR part 903, in effect since 1985, allows for the use of formula rates. Section 903.2(m) specifically excludes a change in the monetary charge pursuant to a formula stated in a rate schedule or contract from the definition of a rate adjustment. Any and all of Western's existing formula rates have been established in formal public processes following the requirements of 10 CFR part 903. Therefore, Western's use of formula rates in this instance is authorized and appropriate.

Availability of Information

All documents related to this action are available for inspection and copying at the following Western locations: Desert Southwest Regional Office, 615 South 43rd Avenue, Phoenix, Arizona; Rocky Mountain Regional Office, 5555 East Crossroads Boulevard, Loveland, Colorado; and Colorado River Storage Project Management Center, 150 East Social Hall Avenue, Suite 300, Salt Lake City, Utah. These documents are also available on Western's Web site at *http://www.wapa.gov/dsw/pwrmkt/WestConnect/Default.htm.*

Ratemaking Procedure Requirements

Environmental Compliance

In compliance with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321, *et seq.*), the Council on Environmental Quality Regulations for implementing NEPA (40 CFR parts 1500–1508), and DOE NEPA Implementing Procedures and Guidelines (10 CFR part 1021), Western has determined this action is categorically excluded from preparing an environmental assessment or an environmental impact statement.

Determination Under Executive Order 12866

Western has an exemption from centralized regulatory review under Executive Order 12866; accordingly, no clearance of this notice by the Office of Management and Budget is required.

Submission to the Federal Energy Regulatory Commission

The Provisional Formula Rates herein confirmed, approved, and placed into effect on an interim basis, together with supporting documents, will be submitted to FERC for confirmation and final approval.

ORDER

In view of the foregoing and under the authority delegated to me, I confirm and approve on an interim basis, effective on the first full billing period on or after June 1, 2014, formula rates, under Rate Schedule WC–8, for use under WestConnect's Point-to-Point Regional Transmission Service. This rate schedule shall remain in effect on an interim basis, pending FERC's confirmation and approval of it or substitute formula rates on a final basis through May 31, 2019, unless Western withdraws from the WestConnect PA, and posts notice of such withdrawal on the OASIS, prior to May 31, 2019.

Dated: May 6, 2014.

Daniel B. Poneman,

Deputy Secretary.

Rate Schedule WC–8

Schedule 8 to Tariff

Effective June 1, 2014

UNITED STATES DEPARTMENT OF ENERGY

WESTERN AREA POWER ADMINISTRATION

LOVELAND AREA PROJECTS

COLORADO RIVER STORAGE PROJECT

PACIFIC NORTHWEST–PACIFIC SOUTHWEST INTERTIE PROJECT

CENTRAL ARIZONA PROJECT

PARKER-DAVIS PROJECT

SCHEDULE OF RATES FOR USE UNDER WESTCONNECT REGIONAL

NON-FIRM TRANSMISSION SERVICE

(Approved Under Rate Order No. WAPA–163)

Effective:

The first day of the first full billing period beginning on or after June 1, 2014, through May 31, 2019, unless Western withdraws from the WestConnect Point-to-Point Regional Transmission Service Participation Agreement, and posts notice of such withdrawal on the Open Access Same-Time Information System (OASIS), prior to May 31, 2019.

Applicable:

This schedule of rates applies to any WestConnect Regional, Non-Firm, Point-to-Point Transmission Service that uses a Western Area Power Administration Transmission Project (TP), i.e., Central Arizona Project, Colorado River Storage Project, Loveland Area Projects, Pacific Northwest-Pacific Southwest Intertie Project, and Parker-Davis Project.

Rate:

The transmission rates to be used in this formula rate calculation will be the applicable TP's in effect hourly, non-firm, point-to-point transmission rate as posted on the applicable TP's Web site and on the OASIS.

Formula Rate Calculation:

On-peak, hourly, non-firm, point-to-point transmission rate:

TP's non-firm, point-to-point, "all hours" transmission rate
47.49 percent (the percentage of FERC-defined on-peak hours).

Off-peak, hourly, non-firm, point-to-point transmission rate:

TP's non-firm, point-to-point, "all hours" transmission rate
52.51 percent (the percentage of FERC-defined off-peak hours).

The converted rates resulting from using this formula will be posted on the applicable TP's Web site and on the OASIS and will be used for applicable WestConnect Regional Non-Firm Point-to-Point Transmission Service transactions only.

[FR Doc. 2014–11026 Filed 5–12–14; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2012–0546; FRL–9910–79–OAR]

Contractor Access to Information Claimed as Confidential Business Information Submitted Under Title II of the Clean Air Act and Related to the Renewable Fuel Standard Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA)'s Office of Transportation and Air Quality plans to authorize a contractor to access information which has been and will be submitted to the EPA under Title II of the Clean Air Act and that may be claimed as, or may be determined to be, confidential business information. Such information is related to small refinery exemptions under the Renewable Fuel Standard program.

DATES: The EPA will accept comments on this notice through May 19, 2014.

FOR FURTHER INFORMATION CONTACT: Mary Manners, Environmental Protection Agency, Office of Transportation and Air Quality, Compliance Division; 2000 Traverwood, Ann Arbor, Michigan, 48105; telephone number: 734–214–4873; fax number: 734–214–4053; email address: *manners.mary@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Does this notice apply to me?

This action is directed to the general public. However, this action may be of particular interest to parties who submit or have previously submitted a small refinery exemption petition to the EPA under the Renewable Fuel Standard (RFS) program as described in 40 CFR part 80, Subpart M. If you have further questions regarding the applicability of this action to a particular party, please contact the person listed in **FOR FURTHER INFORMATION CONTACT**.

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

A. Electronically

The EPA has established a public docket for this **Federal Register** notice under Docket EPA–HQ–OAR–2012–0546.

All documents in the docket are identified in the docket index available at *http://www.regulations.gov.* Although listed in the index, some information is not publicly available, such as confidential business information (CBI) or other information for which disclosure is restricted by statute. Certain materials, such as copyrighted material, will only be available in hard copy at the EPA Docket Center.

B. EPA Docket Center

Materials listed under Docket EPA–HQ–OAR–2012–0546 will be available either electronically through *http://www.regulations.gov* or in hard copy at the Air and Radiation Docket and Information Center, EPA/DC, EPA West, Room 3334, 1301 Constitution Avenue NW., Washington, DC 20460. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742.

III. Description of Program and Potential Disclosure of Information Claimed as CBI to Contractors

The RFS program as established by the Energy Policy Act of 2005 and amended by the Energy Independence and Security Act of 2007 exempted small refineries from the renewable fuel standards through December 31, 2010. After this initial period, the statute allows that small refineries may, on a case-by-case basis, petition the EPA for an extension of their exemption. The EPA may approve such petitions if it finds that disproportionate economic hardship exists. The EPA continues to implement these provisions. In evaluating such petitions, the EPA must consult with the Department of Energy (DOE), and must consider the findings of the DOE study required under CAA 211(o)(9)(A)(ii)(I) and other economic factors. Historically, companies seeking a small refinery exemption have claimed their petitions to be CBI. Information submitted under such a claim is handled in accordance with the EPA's regulations at 40 CFR part 2, subpart B and in accordance with EPA procedures, including comprehensive system security plans (SSPs) that are consistent with those regulations. When the EPA has determined that disclosure of information claimed as CBI to contractors is necessary, the corresponding contract must address the appropriate use and handling of the information by the contractor and the contractor must require its personnel who require access to information claimed as CBI to sign written non-disclosure agreements before they are granted access to data.

In accordance with 40 CFR 2.301(h), we have determined that the contractor listed below requires access to CBI submitted to the EPA under the Clean Air Act and in connection with the RFS program (40 CFR part 80, Subpart M). We are issuing this **Federal Register** notice to inform all affected submitters of information that we plan to grant access to material that may be claimed as CBI to the contractors identified below on a need-to-know basis.

Under DOE Contract Number DE–BP0003293, Stillwater Associates, 3 Rainstar, Irvine, California 92614, has provided and will continue to provide technical support that involves access to information claimed as CBI related to 40 CFR Part 80, Subpart M. Access to data, including information claimed as CBI, will commence immediately upon publication of this notice in the **Federal Register** and will continue indefinitely

as the Agency expects to receive additional petitions for small refinery exemptions for future annual program compliance periods. If the contract is extended, this access will continue for the remainder of the contract without further notice.

Parties who wish further information about this **Federal Register** notice or about OTAQ's disclosure of information claimed as CBI to contactors may contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

List of Subjects

Environmental protection; Confidential business information.

Dated: May 6, 2014.

Byron J. Bunker,

Director, Compliance Division, Office of Transportation and Air Quality, Office of Air and Radiation.

[FR Doc. 2014–10953 Filed 5–12–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OW–2014–0135; FRL_9910–81–OW]

Updated National Recommended Water Quality Criteria for the Protection of Human Health

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Availability.

SUMMARY: EPA is announcing the availability of draft updated national recommended water quality criteria for the protection of human health for the purpose of obtaining public comments. EPA has updated its national recommended water quality criteria for human health for ninety-four chemical pollutants to reflect the latest scientific information and current EPA policies. This draft update is based on EPA's current methodology for deriving human health criteria as described in ''Methodology for Deriving Ambient Water Quality Criteria for the Protection of Human Health (2000)'' and does not establish new policy. EPA's recommended water quality criteria provide technical information for States and authorized Tribes to establish water quality standards under the Clean Water Act to protect human health.

DATES: The public comment period begins on May 13, 2014 and ends on July 14, 2014. Technical comments should be submitted to the public EPA docket by July 14, 2014.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OW–2014–0135, by one of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *Mail:* Water Docket, Environmental Protection Agency, 28221T, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Attention Docket ID No. EPA–HQ–OW–2014–0135.
- *Hand Delivery:* Water Docket, EPA Docket Center, EPA WJC West Building Room 3334, 1301 Constitution Ave. NW., Washington, DC, 20004, Attention Docket EPA–HQ–OW–2014–0135. Deliveries to the docket are accepted only during their normal hours of operation: 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. For access to docket materials, call (202) 566–2426, to schedule an appointment.
- *Email: ow-docket@epa.gov;* Attention Docket No. EPA–HQ–OW–2014–0135. To ensure that EPA can properly respond to comments, commenters should cite the section(s) or chemical(s) in draft updates to which each comment refers. Commenters should use a separate paragraph for each issue discussed, and must submit any references cited in their comments. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment. Electronic files should avoid any form of encryption and should be free of any defects or viruses.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OW–2014–0135. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through www.regulations.gov. The www.regulations.gov Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through www.regulations.gov your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Water Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Water Docket is (202) 566–2426.

FOR FURTHER INFORMATION CONTACT: Heidi Bethel at U.S. EPA, Office of Water, Health and Ecological Criteria Division (Mail Code 4304T), 1200 Pennsylvania Avenue NW., Washington, DC 20460; telephone: (202) 566–2054; or email: *bethel.heidi@epa.gov*.

SUPPLEMENTARY INFORMATION:

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

In preparation for submitting comments for EPA on this action, please review the draft chemical-specific support documents EPA is publishing (1) in the public docket for this action under Docket ID No. EPA–HQ–OW–2014–0135, or (2) on EPA's Web site *http://water.epa.gov/scitech/swguidance/standards/criteria/current/hhdraft.cfm*. Provide EPA with comments regarding scientific views related to the draft updated national recommended water quality criteria for protecting human health. Include any recommended references for data or other scientific information to be considered by EPA.

II. What are recommended water quality criteria?

EPA's recommended water quality criteria are scientifically derived numeric values that protect aquatic life or human health from the deleterious effects of pollutants in ambient water.

Section 304(a)(1) of the Clean Water Act (CWA) requires EPA to develop and publish and, from time to time, revise, criteria for protection of water quality and human health that accurately reflect the latest scientific knowledge. Water quality criteria developed under section 304(a) are based solely on data and scientific judgments on the relationship between pollutant concentrations and environmental and human health effects. Section 304(a) criteria do not reflect consideration of economic impacts or the technological feasibility of meeting pollutant concentrations in ambient water.

EPA's recommended Section 304(a) criteria provide technical information to States and authorized Tribes in adopting water quality standards that ultimately provide a basis for assessing water body health and controlling discharges or releases of pollutants. Under the CWA and its implementing regulations, States and authorized Tribes are to adopt water quality criteria to protect designated uses (e.g., public water supply, aquatic life, recreational use, or industrial use). EPA's recommended water quality criteria do not substitute for the CWA or regulations, nor are they regulations themselves. Thus, EPA's recommended criteria do not impose legally binding requirements. States and authorized Tribes have the discretion to adopt, where appropriate, other scientifically defensible water quality criteria that differ from these recommendations.

III. What are the updated criteria?

Today, EPA is publishing draft updated national recommended water quality criteria for the protection of human health for ninety-four chemical pollutants. These revisions are based on EPA's current methodology for deriving human health criteria (*See: Methodology for Deriving Ambient Water Quality Criteria for the Protection of Human Health* (2000), EPA–822–B–00–004, October 2000). The methodology describes EPA's current approach for deriving national recommended water quality criteria for the protection of human health.

The revision of these criteria represents a systematic update of EPA's national recommended 304(a) criteria. EPA has previously described its process for publishing revised criteria [see National Recommended Water Quality Criteria—Correction (64 FR 19781; or EPA 822–Z–99–001) or the Federal Register Notice for EPA's 2000 Methodology (65 FR 66444)]. EPA is announcing the availability of the updated human health criteria in today's Notice in order to solicit scientific views. EPA has updated the draft human health criteria using information sources and models that have previously undergone external peer review. A fact sheet and a summary of updated input parameters (*e.g.,* cancer slope factor, reference dose, and bioaccumulation factors) used to derive the updated criteria was prepared to assist reviewers. EPA has also developed chemical-specific support documents for each of the ninety-four chemical pollutants. The support documents detail the latest scientific information supporting the updated draft human health criteria, particularly the updated toxicity and exposure input values. All of these documents are available in the docket (EPA–HQ–OW–2014–0135) and on EPA's Web site *http://water.epa.gov/scitech/swguidance/standards/criteria/current/hhdraft.cfm*.

IV. What is the relationship between the draft national recommended water quality criteria and your state or tribal water quality standards?

As part of the water quality standards triennial review process defined in section 303(c)(1) of the CWA, the States and authorized Tribes are responsible for maintaining and revising water quality standards. Water quality standards consist of designated uses, water quality criteria to protect those uses, a policy for antidegradation, and may include general policies for application and implementation. Section 303(c)(1) requires States and authorized Tribes to review and modify, if appropriate, their water quality standards at least once every three years.

States and authorized Tribes must adopt water quality criteria that protect designated uses. Protective criteria are based on a sound scientific rationale and contain sufficient parameters or constituents to protect the designated uses. Criteria may be expressed in either narrative or numeric form. States and authorized Tribes have four options when adopting water quality criteria for which EPA has published section 304(a) criteria. They can:

(1) Establish numerical values based on recommended section 304(a) criteria;

(2) Adopt section 304(a) criteria modified to reflect site specific conditions;

(3) Adopt criteria derived using other scientifically defensible methods; or

(4) Establish narrative criteria where numeric criteria cannot be determined (40 CFR 131.11).

EPA believes that it is important for States and authorized Tribes to consider any new or updated 304(a) criteria as part of their triennial review to ensure that state or tribal water quality standards reflect current science and protect applicable designated uses. These updated criteria recommendations may change based on scientific views shared in response to this notice, but once final they would supersede EPA's previous recommendations.

Consistent with 40 CFR 131.21, new or revised water quality criteria adopted into law or regulation by States and authorized Tribes on or after May 30, 2000 are in effect for CWA purposes only after EPA approval.

Dated: April 29, 2014.

Nancy K. Stoner,

Acting Assistant Administrator, Office of Water.

[FR Doc. 2014–10963 Filed 5–12–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9910–78–OGC]

Proposed Consent Decree, Clean Air Act Citizen Suit

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Proposed Consent Decree; Request for Public Comment.

SUMMARY: In accordance with section 113(g) of the Clean Air Act, as amended (''CAA'' or the ''Act''), notice is hereby given of a proposed consent decree to address a lawsuit filed by WildEarth Guardians in the United States District Court for the District of Colorado: *WildEarth Guardians* v. *McCarthy,* Civil Action No. 1:13–cv–03457–JLK (D. Colo.). On December 23, 2013, Plaintiffs filed a complaint alleging that Gina McCarthy, in her official capacity as Administrator of the United States Environmental Protection Agency (''EPA''), failed to take action on an application for an Operating Permit under Title V of the CAA, and EPA's implementing regulations for the Deseret Bonanza coal-fired power plant, which is located in Uintah County in northeastern Utah, within the Uintah and Ouray Indian Reservation, in the timeframe required. The proposed consent decree would establish deadlines for EPA to take such action.

DATES: Written comments on the proposed consent decree must be received by *June 12, 2014.*

ADDRESSES: Submit your comments, identified by Docket ID number EPA–HQ–OGC–2014–0368 online at *www.regulations.gov* (EPA's preferred

method); by email to *oei.docket@epa.gov;* by mail to EPA Docket Center, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; or by hand delivery or courier to EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC, between 8:30 a.m. and 4:30 p.m. Monday through Friday, excluding legal holidays. Comments on a disk or CD–ROM should be formatted in Word or ASCII file, avoiding the use of special characters and any form of encryption, and may be mailed to the mailing address above.

FOR FURTHER INFORMATION CONTACT: Kristi M. Smith, Air and Radiation Law Office (2344A), Office of General Counsel, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone: (202) 564–3068; fax number: (202) 564–5603; email address: *smith.kristi@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Additional Information About the Proposed Consent Decree

The proposed consent decree would resolve a lawsuit filed by WildEarth Guardians (''Guardians'') seeking to compel the Administrator to take action on an application for an Operating Permit under Title V of the CAA, 42 U.S.C. 7661—7661f, and EPA's implementing regulations at 40 CFR part 71 (''Title V Permit''), for the Deseret Bonanza coal-fired power plant (''Deseret Bonanza Power Plant''), which is located in Uintah County in northeastern Utah, within the Uintah and Ouray Indian Reservation. Under the terms of the proposed consent decree, on or before August 29, 2014, EPA will issue a final Title V permit decision for the Deseret Bonanza Power Plant and provide notice to Guardians in accordance with 40 CFR 71.11(i). In addition, the proposed consent decree arranges for payment to the Plaintiffs for the costs of litigation, including attorney fees.

For a period of thirty (30) days following the date of publication of this notice, the Agency will accept written comments relating to the proposed consent decree from persons who are not named as parties or intervenors to the litigation in question. EPA or the Department of Justice may withdraw or withhold consent to the proposed consent decree if the comments disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Unless EPA or the Department of Justice determines that consent to this consent decree should be withdrawn, the terms of the consent decree will be affirmed.

II. Additional Information About Commenting cn the Proposed Consent Decree

A. How can I get a copy of the consent decree?

The official public docket for this action (identified by Docket ID No. EPA–HQ–OGC–2014–0368 contains a copy of the proposed consent decree. The official public docket is available for public viewing at the Office of Environmental Information (OEI) Docket in the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OEI Docket is (202) 566–1752.

An electronic version of the public docket is available through *www.regulations.gov.* You may use *www.regulations.gov* to submit or view public comments, access the index listing of the contents of the official public docket, and access those documents in the public docket that are available electronically. Once in the system, key in the appropriate docket identification number then select ''search''.

It is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing online at *www.regulations.gov* without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. Information claimed as CBI and other information whose disclosure is restricted by statute is not included in the official public docket or in the electronic public docket. EPA's policy is that copyrighted material, including copyrighted material contained in a public comment, will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the EPA Docket Center.

B. How and to whom do I submit comments?

You may submit comments as provided in the **ADDRESSES** section. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments.

If you submit an electronic comment, EPA recommends that you include your name, mailing address, and an email address or other contact information in the body of your comment and with any disk or CD–ROM you submit. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. Any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Use of the *www.regulations.gov* Web site to submit comments to EPA electronically is EPA's preferred method for receiving comments. The electronic public docket system is an ''anonymous access'' system, which means EPA will not know your identity, email address, or other contact information unless you provide it in the body of your comment. In contrast to EPA's electronic public docket, EPA's electronic mail (email) system is not an ''anonymous access'' system. If you send an email comment directly to the Docket without going through *www.regulations.gov,* your email address is automatically captured and included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

Dated: May 5, 2014.

Lorie J. Schmidt,

Associate General Counsel.

[FR Doc. 2014–10979 Filed 5–12–14; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

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 (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. 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 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 Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before July 14, 2014. 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 Cathy Williams, FCC, via email *PRA@fcc.gov* <*mailto:PRA@fcc.gov*> and to *Cathy.Williams@fcc.gov* <*mailto:Cathy.Williams@fcc.gov*>.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–1145.

Title: Structure and Practices of the Video Relay Service Program, CG Docket No. 10–51.

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 13 respondents; 982 responses.

Estimated Time per Response: 1 minute (.017 hours) to 25 hours.

Frequency of Response: Annual, monthly, on occasion, one-time, and semi-annually reporting requirements; recordkeeping and third party disclosure requirements.

Obligation to Respond: Required to obtain or retain benefit. The statutory authority for the information collection requirements is found at section 225 of the Communications Act, 47 U.S.C. 225. The law was enacted on July 26, 1990, as Title IV of the ADA, Public Law 101–336, 104 Stat. 327, 366–69.

Total Annual Burden: 2,723 hours.

Total Annual Cost: $9,300.

Nature and Extent of Confidentiality: An assurance of confidentiality is not offered because this information collection does not require the collection of personally identifiable information (PII) from individuals.

Privacy Impact Assessment: No impact(s).

Needs and Uses: On April 6, 2011, in document FCC 11–54, the Commission released a *Report and Order* adopting final rules designed to eliminate the waste, fraud and abuse that has plagued the VRS program and had threatened its ability to continue serving Americans who use it and its long-term viability. The *Report and Order* contains potential information collection requirements with respect to the following seven requirements, all of which aims to ensure the sustainability and integrity of the TRS program and the TRS Fund. Though the *Report and Order* emphasizes VRS, many of the requirements also apply to other or all forms of TRS—which includes the adoption of the interim rule, several new information collection requirements.

(1) *Provider Certification Under Penalty of Perjury.* The Chief Executive Officer (CEO), Chief Financial Officer (CFO), or other senior executive of a TRS provider shall certify, under penalty of perjury, that: (1) Minutes submitted to the Interstate TRS Fund (Fund) administrator for compensation were handled in compliance with section 225 of the Act and the Commission's rules and orders, and are not the result of impermissible financial incentives, or payments or kickbacks, to generate calls, and (2) cost and demand data submitted to the Fund administrator related to the determination of compensation rates or methodologies are true and correct.

(2) *Requiring Providers to Submit Information about New and Existing Call Centers.* (a) VRS providers shall submit a written statement to the Commission and the TRS Fund administrator containing the locations of all of their call centers that handle VRS calls, including call centers located outside the United States, twice a year, on April 1st and October 1st. In addition to the street address of each call center, the rules require that these statements contain (1) the number of individual CAs and CA managers employed at each call center; and (2) the name and contact information (phone number and email address) for the managers at each call center. (b) VRS providers shall notify the Commission and the TRS Fund administrator in writing at least 30 days prior to any change to their call centers' locations, including the opening, closing, or relocation of any center.

(3) *Data Filed with the Fund Administrator to Support Payment Claims.* (a) VRS providers shall provide the following data associated with each VRS call for which a VRS provider seeks compensation in its filing with the Fund Administrator: (1) The call record ID sequence; (2) CA ID number; (3) session start and end times; (4) conversation start and end times; (5) incoming telephone number and IP address (if call originates with an IP-based device) at the time of call; (6) outbound telephone number and IP address (if call terminates with an IP-based device) at the time of call; (7) total conversation minutes; (8) total session minutes; (9) the call center (by assigned center ID number) that handles the call; and (10) the URL address through which the call was initiated.

(b) All VRS and IP Relay providers shall submit speed of answer compliance data to the Fund administrator.

(4) *Automated Call Data Collection.* TRS providers shall use an automated record keeping system to capture the following data when seeking compensation from the Fund: (1) The call record ID sequence; (2) CA ID number; (3) session start and end times, at a minimum to the nearest second; (4) conversation start and end times, at a minimum to the nearest second; (5) incoming telephone number (if call originates with a telephone) and IP address (if call originates with an IP-based device) at the time of the call; (6) outbound telephone number and IP address (if call terminates to an IP-based device) at the time of call; (7) total conversation minutes; (8) total session minutes; and (9) the call center (by assigned center ID number) that handles the call.

(5) *Record Retention.* Internet-based TRS providers shall retain the following data that is used to support payment claims submitted to the Fund administrator for a minimum of five years, in an electronic format: (1) The call record ID sequence; (2) CA ID

number; (3) session start and end times; (4) conversation start and end times; (5) incoming telephone number and IP address (if call originates with an IP-based device) at the time of call; (6) outbound telephone number and IP address (if call terminates with an IP-based device) at the time of call; (7) total conversation minutes; (8) total session minutes; and (9) the call center (by assigned center ID number) that handles the call.

(6) *Third-party Agreements.* (a) VRS providers shall maintain copies of all third-party contracts or agreements so that copies of these agreements will be available to the Commission and the TRS Fund administrator upon request. Such contracts or agreements shall provide detailed information about the nature of the services to be provided by the subcontractor.

(b) VRS providers shall describe all agreements in connection with marketing and outreach activities, including those involving sponsorships, financial endorsements, awards, and gifts made by the provider to any individual or entity, in the providers' annual submissions to the TRS Fund administrator.

(7) *Whistleblower Protection.* TRS providers shall provide information about these TRS whistleblower protections, including the right to notify the Commission's Office of Inspector General or its Enforcement Bureau, to all employees and contractors, in writing. Providers that already disseminate their internal business policies to their employees in writing (*e.g.* in employee handbooks, policies and procedures manuals, or bulletin board postings—either online or in hard copy) must also explicitly include these TRS whistleblower protections in those written materials.

Lastly, the Commission is revising this collection to remove the ''Required Submission for Waiver Request'' requirement from this collection because it is no longer necessary, as this provision has expired.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2014–10893 Filed 5–12–14; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Sunshine Act Notice

May 8, 2014.

TIME AND DATE: 10:00 a.m., Thursday, May 22, 2014.

PLACE: The Richard V. Backley Hearing Room, Room 511N, 1331 Pennsylvania Avenue NW., Washington, DC 20004 (entry from F Street entrance)

STATUS: Open .

MATTERS TO BE CONSIDERED: The Commission will hear oral argument in the following matters: *Brody Mining, LLC* v. *Secretary of Labor,* Docket Nos. WEVA 2014–82–R, et al. (Issues include whether the Secretary's pattern of violations (POV) rule is facially valid, whether notice-and-comment rulemaking was required to establish POV screening criteria, and whether the Secretary impermissibly applied the POV rule retroactively.)

Any person attending this oral argument who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR 2706.150(a)(3) and § 2706.160(d).

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 434–9950/(202) 708–9300 for TDD Relay/1–800–877–8339 for toll free.

Emogene Johnson,

Administrative Assistant.

[FR Doc. 2014–11051 Filed 5–9–14; 11:15 am]

BILLING CODE 6735–01–P

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Sunshine Act; Notice of Joint Meeting FRTIB and ETAC

TIME AND DATE: 8:30 a.m. (Eastern Time) May 19, 2014.

PLACE: 10th Floor Board Meeting Room, 77 K Street NE., Washington, DC 20002.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

Open to the Public

1. Approval of the minutes of the April 28, 2014 Board Member Meeting
2. Approval of the Minutes of the November 18, 2013 ETAC Meeting
3. Monthly Reports
   a. Monthly Participant Activity Report
   b. Monthly Investment Policy Review
   c. Legislative Report
4. Office of Enterprise Planning Report
   a. Participant Survey Summary
   b. Mutual Fund Window Report
   c. Quarterly Metrics Report
5. Office of Communications Report

CONTACT PERSON FOR MORE INFORMATION: Kimberly Weaver, Director, Office of External Affairs, (202) 942–1640.

Dated: May 8, 2014.

James Petrick,

General Counsel, Federal Retirement Thrift Investment Board.

[FR Doc. 2014–10994 Filed 5–9–14; 4:15 pm]

BILLING CODE 6760–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Final Effect of Designation of a Class of Employees for Addition to the Special Exposure Cohort

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention, Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: HHS gives notice concerning the final effect of the HHS decision to designate a class of employees from the Joslyn Manufacturing and Supply Company in Fort Wayne, Indiana, as an addition to the Special Exposure Cohort (SEC) under the Energy Employees Occupational Illness Compensation Program Act of 2000.

FOR FURTHER INFORMATION CONTACT: Stuart L. Hinnefeld, Director, Division of Compensation Analysis and Support, NIOSH, 4676 Columbia Parkway, MS C–46, Cincinnati, OH 45226, Telephone 877–222–7570. Information requests can also be submitted by email to *DCAS@CDC.GOV*.

SUPPLEMENTARY INFORMATION:

Authority: 42 U.S.C. 7384q(b). 42 U.S.C. 7384*l*(14)(C).

On March 27, 2014, as provided for under the Secretary of HHS designated the following class of employees as an addition to the SEC:

All Atomic Weapons Employees who worked for Joslyn Manufacturing and Supply Co. at the covered facility in Fort Wayne, Indiana, from March 1, 1943, through July 31, 1948, for a number of work days aggregating at least 250 work days, occurring either solely under this employment, or in combination with work days within the parameters established for one or more other classes of employees included in the Special Exposure Cohort.

This designation became effective on April 26, 2014. Hence, beginning on April 26, 2014, members of this class of

employees, defined as reported in this notice, became members of the SEC.

John Howard,

Director, National Institute for Occupational Safety and Health.

[FR Doc. 2014–11000 Filed 5–12–14; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30-Day 14–13AHL]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The notice for the proposed information collection is published to obtain comments from the public and affected agencies.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address any of the following: (a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) Enhance the quality, utility, and clarity of the information to be collected; (d) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses; and (e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov.* Written comments and/or suggestions regarding the items contained in this notice should be directed to the Attention: CDC Desk Officer, Office of Management and Budget, Washington, DC 20503 or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

Colorectal Cancer Screening Survey—New—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The Centers for Disease Control (CDC) plans to conduct a study to improve understanding of the reasons that individuals do not get screened for colorectal cancer (CRC). CRC is the second leading cause of cancer related death in the U.S. and early screening can prevent deaths, but screening rates are low. Screening for CRC is recommended for adults starting at age 50. However, as of 2008, only 62.9% of adults aged 50–75 years were screened as recommended.

CDC requests OMB approval to pretest and field the Colorectal Cancer Screening Survey, which will collect information on individuals' preferences for different characteristics of CRC screening tests; and how these preferences are affected by CRC risk perceptions, real-life experiences with CRC screening, and exposure to two different fact sheets on CRC screening.

Information collection will involve a Web-based survey. Preferences for screening tests with different attributes will be measured using the stated-preference discrete choice experiment (DCE) survey approach (also known as conjoint analysis). The DCE format presents respondents with choices between hypothetical CRC tests that vary along key attributes. The attributes that will be assessed for CRC screening tests are: (1) What the test can find, (2) how often an individual can take the test, (3) whether the test can remove cancer and polyps (4) preparation before the test, (5), discomfort and activity limitations during and after the test, and (6) cost of the test. Results will be analyzed to quantify the rate at which respondents are willing to trade-off one attribute for another and to rank the importance of attributes and changes in attribute levels. The DCE questions will include the choice of not getting a test to explore the factors that influence the desire to get screening tests. The impact of respondent risk perceptions and experience with CRC screening on preferences for CRC screening tests and willingness to get a test in the future will be tested.

The survey will also collect information to measure the impact of selected educational materials on preferences for CRC screening tests. Each respondent will be randomly assigned to one of three information treatments: (1) A control group that receives no additional information about CRC screening, (2) a treatment group that receives a ''No Excuses'' educational flyer designed to dispel many common reasons for not getting a colonoscopy, or (3) a treatment group that receives a two-page Fact Sheet about CRC and screening options. The flyer and fact sheet were developed in conjunction with CDC's Screen for Life program.

Information will be collected primarily from a sample of 2,000 adults aged 50–75 through a Web-based survey administered by GfK Knowledge Networks (KN). The estimated burden per response is 22–25 minutes. Respondents will be randomly selected from the KN KnowledgePanel®. A pre-test of study procedures will be conducted prior to initiating the main study.

CDC is authorized to conduct this information collection under the Public Health Service Act (42 U.S.C. 241) Section 301. Results from this study will enhance understanding of public preferences for CRC screening tests, and the impact of education materials, risk perceptions, and real-life experiences on CRC screening preferences. Such information will help CDC and other public health policy makers to design, develop, and implement more effective programs to improve rates of CRC screening among average risk individuals.

OMB approval is requested for one year. Participation is voluntary and there are no costs to respondents other than their time. The total estimated burden hours are 812.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	No. of respondents	No. of responses per respondent	Average burden per response (in hr)
Pre-Test Participants	Colorectal Cancer Screening Survey—control group (no information treatment).	10	1	22/60
	Colorectal Cancer Screening Survey—information treatment groups.	20	1	25/60
Study Participants	Colorectal Cancer Screening Survey—control group (no information treatment).	667	1	22/60
	Colorectal Cancer Screening Survey—information treatment groups.	1,333	1	25/60

Leroy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2014–10931 Filed 5–12–14; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30 Day–14–13AIG]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The notice for the proposed information collection is published to obtain comments from the public and affected agencies.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address any of the following: (a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) Enhance the quality, utility, and clarity of the information to be collected; (d) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses; and (e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov*. Written comments and/or suggestions regarding the items contained in this notice should be directed to the Attention: CDC Desk Officer, Office of Management and Budget, Washington, DC 20503 or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

Taxi Driver Survey on Motor Vehicle Safety and Workplace Violence (or, Taxi Driver Survey)—New—National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Under the Public Law 91–596 (Section 20[a][1]), the National Institute for Occupational Safety and Health (NIOSH) is tasked with conducting research relating to occupational safety and health. There are two types of work-related events that are the overwhelming cause of injury and death among taxicab drivers: Transportation-related events (almost exclusively highway-related) and workplace violence.

In the United States, motor vehicle crashes remain the leading cause of occupational fatalities and continue to be a leading cause of occupational nonfatal injuries. In 1998–2002, workers in the ''Taxi Services'' industry had the highest rate of nonfatal motor vehicle-related injuries treated in emergency departments (86 per 10,000 FTEs). Moreover, 134 of the 423 (32%) fatalities 2003–2010 in the ''Taxi and limousine services'' industry resulted from a motor vehicle crash.

Workers, who operate light motor vehicles as their primary job, including taxi drivers, are an inadequately studied population. There are few reports describing the population of workers driving light motor vehicles, their driving patterns, or their driving behaviors. The road safety component of the proposed study would provide new scientific knowledge of a well-defined occupation whose primary job is to operate a taxi cab at any time of day under numerous road and traffic conditions. Motor vehicle safety findings from this survey will be disseminated globally to municipal transportation regulators through an established network.

Workplace violence continues to contribute substantially to the public health burden of both nonfatal and fatal injury outcomes. The proposed study would have a workplace violence section in the survey that would allow the evaluation of the major types of safety equipment on rates of workplace violence incidents and events at the individual level (taxicab drivers).

The proposed study goals are to: (1) Describe the occurrence of motor vehicle events among taxicab drivers, (2) describe the risk factors of motor vehicle events among taxicab drivers, and (3) evaluate events of workplace violence among taxicab drivers. In order to accomplish the study goals, the corresponding study objectives are: (a) To enumerate the occurrence of motor vehicle crashes among taxicab drivers, (b) identify and describe the risk factors and protective factors associated with road safety among taxicab drivers, and (c) compare workplace violence events over a twelve-month period among taxicab drivers by type of safety equipment installed in taxicab.

Findings from the study will be used to develop future prevention initiatives for reducing work-related motor vehicle crashes. These prevention initiatives, such as reducing driver fatigue through shift work limitations, may take the form of municipal ordinances

promulgated by the city regulators or company-wide directives designed to impact road safety by a city taxi fleet. Another use of data collected for this study would be to serve as a baseline measure for a future evaluation of safety initiatives implemented at the municipal level. Finally, contextual data on motor vehicle crashes is not completely captured by current surveillance methods. Such a survey would provide insight into the occurrence of crashes involving taxicabs. Furthermore, data on driving behaviors in the context of safety climate and role overload can only be obtained directly from taxicab drivers and will provide the perspective needed for designing effective safety interventions.

CDC requests OMB approval for 2 years to collect survey data using the Taxi Driver Survey. CDC anticipates the survey data collection will be conducted in Houston over several months in Summer/Fall of 2014 and over several months in FY 2015 for Los Angeles. The study objectives will be addressed using a single survey designed to capture prevalence and frequency of adverse motor vehicle events and injuries, road safety data elements and workplace violence data elements. Taxicab drivers will be approached and invited to participate in two cities, 550 in Houston and 550 in Los Angeles, it is anticipated 50 taxicab drivers in each city will not participate in the survey. Survey data will be collected from taxicab drivers in two cities, 500 in Houston and 500 in Los Angeles once during a 30 minute in-person interview, while taxicab drivers are waiting in the airport lot to pick up fares.

The survey questions on road safety behaviors are from validated questionnaires used by researchers in Australia. The survey was administered to nine taxicab drivers in Houston to test for clarity and comprehensibility by taxicab drivers. The survey took 30 minutes or less to complete.

The information collected will describe road safety and workplace violence experiences in the past 12 months. Collecting survey data on 500 respondents in each city results in an estimated burden of 275 hours per city. The total estimated burden is 550 hours. There is no cost to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in minutes)
Taxicab Drivers in Houston	Taxi Driver Survey	550	1	30
Taxicab Drivers in Los Angeles	Taxi Driver Survey	550	1	30

Leroy Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2014–10932 Filed 5–12–14; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Health Resources and Services Administration

CDC/HRSA Advisory Committee on HIV, Viral Hepatitis and STD Prevention and Treatment

In accordance with section l0(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) and the Health Resources and Services Administration (HRSA) announce the following meeting of the aforementioned committee:

TIMES AND DATES:

8:00 a.m.–5:30 p.m., May 21, 2014

8:00 a.m.–2:30 p.m., May 22, 2014

PLACE: CDC Corporate Square, Building 8, Conference Room 1–ABC, 8 Corporate Boulevard, Atlanta, Georgia 30329, Telephone: (404) 639–8317.

STATUS: Open to the public, limited only by the space available. The meeting room will accommodate approximately 100 people. This meeting is also accessible by teleconference. Toll-free number +1 (877) 603–4228, Participant code: 42598858.

PURPOSE: This Committee is charged with advising the Director, CDC and the Administrator, HRSA, regarding activities related to prevention and control of HIV/AIDS, Viral Hepatitis and other STDs, the support of health care services to persons living with HIV/AIDS, and education of health professionals and the public about HIV/AIDS, Viral Hepatitis and other STDs.

MATTERS FOR DISCUSSION: Agenda items include: (1) Improving screening and treatment of Hepatitis C Virus (HCV); (2) Innovative approaches to HIV prevention among Men Who Have Sex with Men (MSM); (3) Preventing HCV and HIV among Injection Drug Users (IDUs); (4) How to expand and improve screening for HIV, HCV and Chlamydia; and (5) Updates from Workgroups.

Agenda items are subject to change as priorities dictate.

CONTACT PERSON FOR MORE INFORMATION: Margie Scott-Cseh, CDC, National Center for HIV/AIDS, Viral Hepatitis, STD, and TB Prevention, 1600 Clifton Road NE., Mailstop E–07, Atlanta, Georgia 30333, Telephone: (404) 639–8317.

This notice is being published on less than 15 days prior to the meeting date due to an unforeseen technological anomaly during the submission of this meeting announcement.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** Notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 2014–10894 Filed 5–12–14; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–D–0456]

Appropriate Use of Voluntary Consensus Standards in Premarket Submissions for Medical Devices; Draft Guidance for Industry and Food and Drug Administration Staff; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the draft guidance entitled ''Appropriate Use of Voluntary Consensus Standards in Premarket Submissions for Medical Devices.'' FDA developed this draft document to provide guidance about the appropriate use of national and international voluntary consensus standards in the preparation and evaluation of premarket submissions for medical devices. This document also discusses procedures for the appropriate use of consensus standards, both recognized and non-recognized, limitations on the use of consensus standards, and the content of a Declaration of Conformity to FDA-recognized consensus standards. This draft guidance is not final nor is it in effect at this time.

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance, submit either electronic or written comments on the draft guidance by August 11, 2014.

ADDRESSES: An electronic copy of the guidance document is available for download from the Internet. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance. Submit written requests for a single hard copy of the draft guidance document entitled ''Appropriate Use of Voluntary Consensus Standards in Premarket Submissions for Medical Devices'' to the Office of the Center Director, Guidance and Policy Development, Center for Devices and Radiological Health (CDRH), Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5431, Silver Spring, MD 20993–0002, or to the Office of Communication, Outreach, and Development (HFM–40), Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448. Send one self-addressed adhesive label to assist that office in processing your request.

Submit electronic comments on the draft guidance to *http://www.regulations.gov*. Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. Identify comments with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT:

For devices regulated by CDRH: Scott Colburn, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 3632, Silver Spring, MD 20993–0002, 301–796–6287.

For devices regulated by CBER: Stephen Ripley, Center for Biologics Evaluation and Research, Food and Drug Administration, 1401 Rockville Pike, Suite 200N, Rockville, MD 20852–1448, 301–827–6210.

I. Background

This draft guidance provides information to industry and FDA reviewers about the appropriate use of national and international voluntary consensus standards in the preparation and evaluation of premarket submissions for medical devices. This document intends to clarify and explain the regulatory framework, policies, and practices underlying the appropriate utilization of voluntary consensus standards in the premarket review program. Additionally, the guidance provides information about the general use of voluntary consensus standards as well as the appropriate use of the declaration of conformity to consensus standards that have been recognized by FDA under section 514(c) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360d(c). The draft guidance also proposes two changes in policy. The first proposal is for declarations of conformity to no longer be used when the submitter deviates from an FDA-recognized standard. The second proposal is for promissory statements indicating future conformance with a consensus standard to no longer be used. FDA intends to update other related guidance documents accordingly once this guidance is finalized. This guidance is not intended to address the specific content needed to support the approval or clearance of any particular premarket submission.

II. Significance of Guidance

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the Agency's current thinking on the appropriate use of voluntary consensus standards in premarket submissions for medical devices. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute and regulations.

III. Electronic Access

Persons interested in obtaining a copy of the draft guidance may do so by downloading an electronic copy from the Internet. A search capability for all CDRH guidance documents is available at *http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/default.htm*. Guidance documents are also available at *http://www.regulations.gov* or *http://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/Guidances/default.htm*. Persons unable to download an electronic copy of ''Appropriate Use of Voluntary Consensus Standards in Premarket Submissions for Medical Devices'' may send an email request to *CDRH-Guidance@fda.hhs.gov* to receive an electronic copy of the document. Please use the document number 1770 to identify the guidance you are requesting.

IV. Paperwork Reduction Act of 1995

This draft guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 807, subpart E, and FDA Form 3654, have been approved under OMB control number 0910–0120; the collections of information in 21 CFR part 812 have been approved under OMB control number 0910–0078; the collections of information in 21 CFR part 814 have been approved under OMB control number 0910–0231; the collections of information in 21 CFR part 814, subpart H, have been approved under OMB control number 0910–0332; the collections of information in 21 CFR part 820 have been approved under OMB control number 0910–0073; the collections of information in 21 CFR part 312 have been approved under OMB control number 0910–0014; and the collections of information in 21 CFR part 601 have been approved under OMB control number 0910–0338.

V. Comments

Interested persons may submit either electronic comments regarding this document to *http://www.regulations.gov* or written comments to the Division of Dockets Management (see **ADDRESSES**). It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov*.

Dated: May 7, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–10905 Filed 5–12–14; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–D–0288]

International Cooperation on Harmonisation of Technical Requirements for Registration of Veterinary Medicinal Products (VICH GL51); Guidance for Industry on Statistical Evaluation of Stability Data; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of guidance for industry (GFI #219) entitled ''Guidance for Industry on Statistical Evaluation of Stability Data, VICH GL51.'' This guidance has been developed for veterinary use by the International Cooperation on Harmonisation of Technical Requirements for Registration of Veterinary Medicinal Products (VICH). This VICH guidance document is intended to provide recommendations on how to use stability data generated in accordance with the principles detailed in the VICH guidance entitled ''Stability Testing of New Veterinary Drug Substances and Medicinal Products, GL3(R)'' to propose a retest period or shelf life in a registration application.

DATES: Submit either electronic or written comments on Agency guidances at any time.

ADDRESSES: Submit written requests for single copies of the guidance to the Communications Staff (HFV–12), Center for Veterinary Medicine, Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855. Send one self-addressed adhesive label to assist that office in processing your request. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

Submit electronic comments on the guidance to *http://www.regulations.gov*. Submit written comments on the guidance to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Mai Huynh, Center for Veterinary Medicine, (HFV–142), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 240–402–0669, *Mai.huynh@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

In recent years, many important initiatives have been undertaken by regulatory authorities and industry associations to promote the international harmonization of regulatory requirements. FDA has participated in efforts to enhance harmonization and has expressed its commitment to seek scientifically based, harmonized technical procedures for the development of pharmaceutical products. One of the goals of harmonization is to identify, and then reduce, differences in technical requirements for drug development among regulatory agencies in different countries.

FDA has actively participated in the International Conference on Harmonisation of Technical Requirements for Approval of Pharmaceuticals for Human Use for several years to develop harmonized technical requirements for the approval of human pharmaceutical and biological products among the European Union, Japan, and the United States. The VICH is a parallel initiative for veterinary medicinal products. The VICH is concerned with developing harmonized technical requirements for the approval of veterinary medicinal products in the European Union, Japan, and the United States, and includes input from both regulatory and industry representatives.

The VICH Steering Committee is composed of member representatives from the European Commission, European Medicines Evaluation Agency, European Federation of Animal Health, Committee on Veterinary Medicinal Products, FDA, the U.S. Department of Agriculture, the Animal Health Institute, the Japanese Veterinary Pharmaceutical Association, the Japanese Association of Veterinary Biologics, and the Japanese Ministry of Agriculture, Forestry, and Fisheries.

Four observers are eligible to participate in the VICH Steering Committee: One representative from the governments of Australia/New Zealand, one representative from the industry in Australia/New Zealand, one representative from the government of Canada, and one representative from the industry of Canada. The VICH Secretariat, which coordinates the preparation of documentation, is provided by the International Federation for Animal Health (IFAH). An IFAH representative also participates in the VICH Steering Committee meetings.

II. Guidance on Statistical Evaluation of Stability Data

In the **Federal Register** of April 4, 2012 (77 FR 20406), FDA published a notice of availability for a draft guidance entitled ''Draft Guidance for Industry on Statistical Evaluation of Stability Data, VICH GL51.'' Interested persons were given until June 4, 2012, to comment on the draft guidance. FDA received several comments on the draft, and those comments, as well as those received by other VICH member regulatory agencies, were considered as the guidance was finalized. No substantive changes were made in finalizing this guidance document. The guidance announced in this document finalizes the draft guidance dated January 10, 2012. The final guidance is a product of the Quality Expert Working Group of the VICH.

This VICH guidance document provides recommendations on how to use stability data generated in accordance with the principles detailed in the VICH guidance entitled, ''Stability Testing of New Veterinary Drug Substances and Medicinal Products, GL3(R)'' to propose a retest period or shelf life in a registration application. This guidance describes when and how extrapolation can be considered when proposing a retest period for a drug substance or a shelf life for a veterinary medicinal product that extends beyond the period covered by available data from the stability study under the long-term storage condition.

This guidance addresses the evaluation of stability data that should be submitted in registration applications for new molecular entities and associated veterinary medicinal products. The guidance provides recommendations on establishing retest periods and shelf lives for drug

substances and veterinary medicinal products intended for storage at or below ''room temperature''. It covers stability studies using single- or multi-factor designs and full or reduced designs.

III. Significance of Guidance

This guidance, developed under the VICH process, has been revised to conform to FDA's good guidance practices regulation (21 CFR 10.115). For example, the document has been designated ''guidance'' rather than ''guideline.'' In addition, guidance documents must not include mandatory language such as ''shall,'' ''must,'' ''require,'' or ''requirement,'' unless FDA is using these words to describe a statutory or regulatory requirement.

This guidance represents the Agency's current thinking on this topic. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

IV. Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in this guidance have been approved under OMB control number 0910–0032.

V. Comments

Interested persons may submit either electronic comments regarding this document to *http://www.regulations.gov* or written comments to the Division of Dockets Management (see **ADDRESSES**). It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov*.

VI. Electronic Access

Persons with access to the Internet may obtain the guidance at either *http://www.fda.gov/AnimalVeterinary/GuidanceComplianceEnforcement/GuidanceforIndustry/default.htm* or *http://www.regulations.gov*.

Dated: May 8, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–10952 Filed 5–12–14; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–N–0001]

Immune Responses to Enzyme Replacement Therapies: Role of Immune Tolerance Induction; Public Workshop

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public workshop.

SUMMARY: The Food and Drug Administration's (FDA) Center for Drug Evaluation and Research, in cosponsorship with the National Organization for Rare Disorders (NORD), is announcing a 1-day public workshop entitled ''Immune Responses to Enzyme Replacement Therapies: Role of Immune Tolerance Induction.'' Partners and stakeholders planning the workshop also include representatives from academia, industry, and patients. The purpose of this workshop is to provide a forum to discuss the role of immune tolerance induction in patients receiving replacement biological products.

DATES: The public workshop will be held on June 9, 2014, from 8 a.m. to 5 p.m.

ADDRESSES: The public workshop will be held at FDA White Oak Campus, 10903 New Hampshire Ave., Bldg. 31 Conference Center, the Great Room (Rm. 1503), Silver Spring, MD 20993–0002. Entrance for the public workshop participants (non-FDA employees) is through Bldg. 1 where routine security check procedures will be performed. For parking and security information, please refer to *http://www.fda.gov/AboutFDA/WorkingatFDA/BuildingsandFacilities/WhiteOakCampusInformation/ucm241740.htm*.

FOR FURTHER INFORMATION CONTACT: Maureen Dewey, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993–0002, 301–796–0845, FAX: 301–796–9905, *Maureen.Dewey@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: FDA's Center for Drug Evaluation and Research, in co-sponsorship with NORD, is announcing a 1-day public workshop entitled ''Immune Responses to Enzyme Replacement Therapies: Role of Immune Tolerance Induction.'' The cosponsored workshop will facilitate an ongoing dialogue among relevant parties on issues related to the role of immune tolerance induction in enzyme replacement therapies. The workshop will discuss the impact of anti-drug and neutralizing antibodies on efficacy and safety of enzyme replacement therapies intended to treat patients with lysosomal storage diseases and the risks and benefits of implementing prophylactic immune tolerance regimens to preclude generation of these antibodies. Stakeholders, including patients and patient organizations, industry sponsors, academia, and FDA, will discuss challenging issues related to immune tolerance induction in enzyme replacement therapies.

Registration: There is no fee to attend the public workshop, but advanced online registration is requested. Space is limited, and registration will be on a first-come, first-served basis. To register online, please visit *https://events.rarediseases.org/?page_id=4&ee=13*. Onsite registration the day of the workshop will be available, but advanced registration is preferred.

If you need special accommodations due to a disability, please contact Maureen Dewey (see **FOR FURTHER INFORMATION CONTACT**) at least 7 days in advance.

Transcripts: Transcripts of the workshop will be available for review at the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, and at *http://www.regulations.gov* approximately 30 days after the workshop. A transcript will also be available in either hardcopy or on CD–ROM, after submission of a Freedom of Information request. Send written requests to the Division of Freedom of Information (ELEM–1029), Food and Drug Administration, 12420 Parklawn Dr., Element Bldg., Rockville, MD 20857. Send faxed requests to 301–827–9267.

Dated: May 7, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–10933 Filed 5–12–14; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–N–0001]

Anesthetic and Analgesic Drug Products Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Anesthetic and Analgesic Drug Products Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the Agency on FDA's regulatory issues.

Date and Time: The meeting will be held on June 11, 2014, from 8 a.m. to 5 p.m., and June 12, 2014, from 8 a.m. to 1 p.m.

Location: FDA White Oak Campus, 10903 New Hampshire Ave., Bldg. 31 Conference Center, the Great Room (Rm. 1503), Silver Spring, MD 20993–0002. Information regarding special accommodations due to a disability, visitor parking, and transportation may be accessed at: *http://www.fda.gov/AdvisoryCommittees/default.htm*; under the heading ''Resources for You,'' click on ''Public Meetings at the FDA White Oak Campus.'' Please note that visitors to the White Oak Campus must enter through Building 1.

Contact Person: Stephanie L. Begansky, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2147, Silver Spring, MD 20993–0002, 301–796–9001, Fax: 301–847–8533, email: *AADPAC@fda.hhs.gov*, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's Web site at *http://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

Agenda: The committee will discuss the potential cardiovascular risk associated with products in the class of peripherally acting opioid receptor antagonists and the necessity, timing, design, and size of cardiovascular outcomes trials to support approval of products in the class for the proposed indication of opioid-induced constipation in patients taking opioids for chronic pain.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/AdvisoryCommittees/Calendar/default.htm*. Scroll down to the appropriate advisory committee meeting link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before May 28, 2014. Oral presentations from the public will be scheduled between approximately 9 a.m. and 10 a.m. on June 12, 2014. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before May 19, 2014. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by May 20, 2014.

Persons attending FDA's advisory committee meetings are advised that the Agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Stephanie L. Begansky at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: May 7, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–10903 Filed 5–12–14; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–E–1230]

Determination of Regulatory Review Period for Purposes of Patent Extension; SURFAXIN

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for SURFAXIN and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Director of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESSES: Submit electronic comments to *http://www.regulations.gov.* Submit written petitions (two copies are required) and written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. Submit petitions electronically to *http://www.regulations.gov* at Docket No. FDA–2013–S–0610.

FOR FURTHER INFORMATION CONTACT: Beverly Friedman, Office of Management, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6257, Silver Spring, MD 20993–0002, 301–796–7900.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be

extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA has approved for marketing the human drug product SURFAXIN (lucinactant, which is a combination of four active ingredients—sinapultide, colfosceril palmitate, POPG (1-palmitoyl-2-oleoyl-sn-glycero-3-phosphoglycerol), and palmitic acid). SURFAXIN is indicated for the prevention of respiratory distress syndrome (RDS) in premature infants at high risk for RDS. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for SURFAXIN (U.S. Patent No. 5,407,914) from Discovery Laboratories, Inc., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated February 4, 2013, FDA advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of SURFAXIN represented the first permitted commercial marketing or use of the product. Thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for SURFAXIN is 7,124 days. Of this time, 4,239 days occurred during the testing phase of the regulatory review period, while 2,885 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 355(i)) became effective:* September 5, 1992. FDA has verified the applicant's claim that the date the investigational new drug application became effective was on September 5, 1992.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the FD&C Act:* April 13, 2004. FDA has verified the applicant's claim that the new drug application (NDA) for SURFAXIN (NDA 21–746) was submitted on April 13, 2004.

3. *The date the application was approved:* March 6, 2012. FDA has verified the applicant's claim that NDA 21–746 was approved on March 6, 2012.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 5 years of patent term extension.

Anyone with knowledge that any of the dates as published are incorrect may submit to the Division of Dockets Management (see **ADDRESSES**) either electronic or written comments and ask for a redetermination by July 14, 2014. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by November 10, 2014. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) electronic or written comments and written or electronic petitions. It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. If you submit a written petition, two copies are required. A petition submitted electronically must be submitted to *http://www.regulations.gov,* Docket No. FDA–2013–S–0610. Comments and petitions that have not been made publicly available on *http://www.regulations.gov* may be viewed in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 7, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–10904 Filed 5–12–14; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2011–E–0759]

Determination of Regulatory Review Period for Purposes of Patent Extension; IMPROVEST

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for IMPROVEST and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Director of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that animal drug product.

ADDRESSES: Submit electronic comments to *http://www.regulations.gov.* Submit written petitions (two copies are required) and written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. Submit petitions electronically to *http://www.regulations.gov* at Docket No. FDA–2013–S–0610.

FOR FURTHER INFORMATION CONTACT: Beverly Friedman, Office of Management, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6257, Silver Spring, MD 20993–0002, 301–796–7900.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis

for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For animal drug products, the testing phase begins on the earlier date when either a major environmental effects test was initiated for the drug or when an exemption under section 512(j) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 360b(j)) became effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the animal drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for an animal drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(4)(B).

FDA has approved for marketing the animal drug product IMPROVEST (gonadotropin releasing factor analog-diptheria toxoid conjugate). IMPROVEST is indicated for the temporary immunological castration (suppression of testicular function) and reduction of boar taint in intact male pigs intended for slaughter. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for IMPROVEST (U.S. Patent No. 7,534,441) from Pfizer Inc., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated August 10, 2012, FDA advised the Patent and Trademark Office that this animal drug product had undergone a regulatory review period and that the approval of IMPROVEST represented the first permitted commercial marketing or use of the product. Thereafter, the Patent and Trademark Office requested that the FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for IMPROVEST is 2,555 days. Of this time, 2,498 days occurred during the testing phase of the regulatory review period, while 57 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 355(i)) became effective:* March 25, 2004. The applicant claims July 18, 2005, as the date the investigational new animal drug application (INAD) became effective. However, FDA records indicate that the INAD effective date was March 25, 2004, which was the received date of the first submission containing a Notice of Claimed Investigational Exemption for a new animal drug.

2. *The date the application was initially submitted with respect to the animal drug product under section 512 of the FD&C Act (21 U.S.C. 360b):* January 25, 2011. The applicant claims January 24, 2011, as the date the new animal drug application (NADA) for IMPROVEST (NADA 141–322) was initially submitted. However, FDA records indicate that January 24, 2011, was the correspondence date of the cover letter for NADA 141–322 and the application was received by FDA on January 25, 2011.

3. *The date the application was approved:* March 22, 2011. FDA has verified the applicant's claim that NADA 141–322 was approved on March 22, 2011.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 366 days of patent term extension.

Anyone with knowledge that any of the dates as published are incorrect may submit to the Division of Dockets Management (see **ADDRESSES**) either electronic or written comments and ask for a redetermination by July 14, 2014. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by November 10, 2014. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) electronic or written comments and written or electronic petitions. It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. If you submit a written petition, two copies are required. A petition submitted electronically must be submitted to *http://www.regulations.gov,* Docket No. FDA–2013–S–0610. Comments and petitions that have not been made publicly available on *http://www.regulations.gov* may be viewed in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 7, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–10951 Filed 5–12–14; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–E–0160]

Determination of Regulatory Review Period for Purposes of Patent Extension; TRADJENTA

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for TRADJENTA and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Director of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESSES: Submit electronic comments to *http://www.regulations.gov*. Submit written petitions (two copies are required) and written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit petitions electronically to *http://www.regulations.gov* at Docket No. FDA–2013–S–0610.

FOR FURTHER INFORMATION CONTACT: Beverly Friedman, Office of Management, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6257, Silver Spring, MD 20993–0002, 301–796–7900.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color

additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA has approved for marketing the human drug product TRADJENTA (linagliptin). TRADJENTA is indicated as an adjunct to diet and exercise to improve glycemic control in adults with type 2 diabetes mellitus. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for TRADJENTA (U.S. Patent No. 7,407,955) from Boehringer Ingelheim Pharma GmbH & Co. KGA, and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated July 10, 2012, FDA advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of TRADJENTA represented the first permitted commercial marketing or use of the product. Thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for TRADJENTA is 2,051 days. Of this time, 1,746 days occurred during the testing phase of the regulatory review period, while 305 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 355(i)) became effective:* September 21, 2005. FDA has verified the applicant's claim that the date the investigational new drug application became effective was on September 21, 2005.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the FD&C Act:* July 2, 2010. FDA has verified the applicant's claim that the new drug application (NDA) for TRADJENTA (NDA 201–280) was submitted on July 2, 2010.

3. *The date the application was approved:* May 2, 2011. FDA has verified the applicant's claim that NDA 201–280 was approved on May 2, 2011.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 629 days of patent term extension.

Anyone with knowledge that any of the dates as published are incorrect may submit to the Division of Dockets Management (see **ADDRESSES**) either electronic or written comments and ask for a redetermination by July 14, 2014. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by November 10, 2014. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) electronic or written comments and written or electronic petitions. It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. If you submit a written petition, two copies are required. A petition submitted electronically must be submitted to *http://www.regulations.gov,* Docket No. FDA–2013–S–0610. Comments and petitions that have not been made publicly available on *http://www.regulations.gov* may be viewed in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 8, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–10945 Filed 5–12–14; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Council on Blood Stem Cell Transplantation; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of the following meeting:

Name: Advisory Council on Blood Stem Cell Transplantation.

Date and Time: May 29, 2014, 10:00 a.m. to 4:00 p.m. (Eastern Standard Time).

Place: The meeting will be via audio conference call and Adobe Connect Pro.

Status: The meeting will be open to the public.

Purpose: Pursuant to Public Law 109–129, 42 U.S.C. 274k (section 379 of the Public Health Service Act, as amended), the Advisory Council on Blood Stem Cell Transplantation (ACBSCT) advises the Secretary of the Department of Health and Human Services and the Administrator, Health Resources and Services Administration on matters related to the activities of the C.W. Bill Young Cell Transplantation Program (Program) and the National Cord Blood Inventory Program.

Agenda: The Council will hear reports from ACBSCT Work Groups including: Cord Blood Thawing and Washing; Access to Transplantation; and Advancing Hematopoietic Stem Cell Transplantation for Hemoglobinopathies. The Council also will hear presentations and discussions on topics including: Accreditation; Adverse Event Reporting; and Unmet Need. Agenda items are subject to changes as priorities indicate.

After Council discussions, members of the public will have an opportunity to provide comments. Because of the Council's full agenda and the time frame in which to cover the agenda topics, public comment will be limited. All public comments will be included in the record of the ACBSCT meeting. Meeting summary notes will be posted on the Program Web site at *http://bloodcell.transplant.hrsa.gov/ABOUT/Advisory_Council/index.html*.

The draft meeting agenda will be posted on *www.blsmeetings.net/ACBSCT*. Those participating in this meeting should register by visiting *www.blsmeetings.net/ACBSCT*. The deadline to register for this meeting is Wednesday, May 28, 2014. For all logistical questions and concerns, please contact Anita Allen, Seamon Corporation, by calling (301) 658–3442

or by sending an email to *aallen@seamoncorporation.com*.

The public can join the meeting by:

1. (Audio Portion) Calling the conference number at 888–324–4391 and providing the Participant Code 2426; AND

2. (Visual Portion) Connecting to the ACBSCT Adobe Connect Pro Meeting using the following URL and entering as GUEST: *https://hrsa.connectsolutions.com/acbsct_2/* (copy and paste the link into your browser if it does not work directly, and enter as a guest).

Participants should call and connect 15 minutes prior to the meeting in order for logistics to be set up. If you have never attended an Adobe Connect meeting, please test your connection using the following URL: *https://hrsa.connectsolutions.com/common/help/en/support/meeting_test.htm* and get a quick overview by following URL: *http://www.adobe.com/go/connectpro_overview*. Call (301) 443–0437 or send an email to ptongele@hrsa.gov if you are having trouble connecting to the meeting site.

Public Comment: It is preferred that persons interested in providing an oral presentation submit a written request, along with a copy of their presentation to: Passy Tongele, MBA, Division of Transplantation, Healthcare Systems Bureau, Health Resources and Services Administration, Room 8W27A, 5600 Fishers Lane, Rockville, Maryland 20857 or email at *ptongele@hrsa.gov*. Requests should contain the name, address, telephone number, email address, and any business or professional affiliation of the person desiring to make an oral presentation. Groups having similar interests are requested to combine their comments and present them through a single representative.

The allocation of time may be adjusted to accommodate the level of expressed interest. Persons who do not file an advance request for a presentation, but desire to make an oral statement, may request at the time of the public comment period. Public participation and ability to comment will be limited to time as it permits.

FOR FURTHER INFORMATION CONTACT: Patricia Stroup, MBA, MPA, Executive Secretary, Healthcare Systems Bureau, Health Resources and Services Administration, 5600 Fishers Lane, Room 11C–06Q, Rockville, Maryland 20857; telephone (301) 443–1127.

Dated: May 7, 2014.

Bahar Niakan,

Director, Division of Policy and Information Coordination.

[FR Doc. 2014–10965 Filed 5–12–14; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; 60-Day Comment Request Return: Chimpanzee Research Use Form (OD)

SUMMARY: In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collection projects, the Division of Program Coordination, Planning, and Strategic Initiatives (DPCPSI), Office of the Director (OD), National Institutes of Health (NIH), will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

Written comments and/or suggestions from the public and affected agencies are invited to address one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) The quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

To Submit Comments and for Further Information: To obtain a copy of the data collection plans and instruments, submit comments in writing, or request more information on the proposed project, contact: The Division of Program Coordination, Planning, and Strategic Initiatives, OD, NIH, Building 1, Room 260, 1 Center Drive, Bethesda, MD 20892; or call non-toll-free number 301–402–9852; or email your request, including your address, to *dpcpsi@od.nih.gov*. Formal requests for additional plans and instruments must be requested in writing.

Comment Due Date: Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

Proposed Collection: Chimpanzee Research Use Form, 0925–NEW, Division of Program Coordination, Planning, and Strategic Initiatives (DPCPSI), Office of the Director (OD), National Institutes of Health (NIH).

Need and Use of Information Collection: The purpose of this form is to obtain information needed by the NIH to assess whether the proposed research triggers consideration by the Chimpanzee Research Use Panel (CRUP) and the NIH Council of Councils (Council), and if so, whether the research satisfies the agency's policy for research involving chimpanzees. The CRUP is a working group of the Council that has been charged with considering whether research proposing to use chimpanzees is consistent with principles and criteria for research involving chimpanzees, as discussed in the 2011 Institute of Medicine report, *Chimpanzees in Biomedical and Behavioral Research: Assessing the Necessity,* and as implemented through agency policy. The NIH, the CRUP, and/or the Council, will consider the information submitted through this form prior to the agency making funding decisions or otherwise allowing the research to begin. Completion of this form is a mandatory step toward receiving NIH support or approval for research involving chimpanzees.

OMB approval is requested for three years. There are no costs to respondents other than their time. The total estimated annualized burden hours is 40.

ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Type of respondent	Number of respondents	Number of responses per respondent	Average time per response (in hours)	Total annual burden hour
Chimpanzee Research Use Form	Research Community	20	1	2	40

Dated: May 5, 2014.

Lawrence A. Tabak,

Principal Deputy Director, NIH.

[FR Doc. 2014–10936 Filed 5–12–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Skeletal Biology Development and Disease Study Section, June 03, 2014, 08:00 a.m. to June 04, 2014, 05:30 p.m., Gaithersburg Marriott Washingtonian Center, 9751 Washingtonian Boulevard, Gaithersburg, MD 20878 which was published in the **Federal Register** on May 06, 2014, 79 FR 25880.

The meeting will be held at the Marriott Courtyard Gaithersburg Washingtonian Center, 204 Boardwalk Place, Gaithersburg, MD 20878. The meeting date and time remain the same. The meeting is closed to the public.

Dated: May 7, 2014.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–10910 Filed 5–12–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Toxicology Program Board of Scientific Counselors; Announcement of Meeting; Request for Comments

SUMMARY: This notice announces the next meeting of the National Toxicology Program (NTP) Board of Scientific Counselors (BSC). The BSC, a federally chartered, external advisory group composed of scientists from the public and private sectors, will review and provide advice on programmatic activities. The meeting is open to the public and registration is requested for both attendance and oral comment and required to access the webcast. Information about the meeting and registration are available at *http://ntp.niehs.nih.gov/go/165.*

DATES:

Meeting: June 17–18, 2014, begins at 8:30 a.m. Eastern Daylight Time (EDT) each day and continues until adjournment.

Written Public Comment Submissions: Deadline is June 3, 2014.

Registration for Meeting and/or Oral Comments: Deadline is June 10, 2014. Registration to view the meeting via the webcast is required.

ADDRESSES:

Meeting Location: Rodbell Auditorium, Rall Building, National Institute of Environmental Health Sciences (NIEHS), 111 T.W. Alexander Drive, Research Triangle Park, NC 27709.

Meeting Web page: The preliminary agenda, registration, and other meeting materials are at *http://ntp.niehs.nih.gov/go/165.*

Webcast: The meeting will be webcast; the URL will be provided to those who register for viewing.

FOR FURTHER INFORMATION CONTACT: Dr. Lori White, Designated Federal Officer for the BSC, Office of Liaison, Policy and Review, Division of NTP, NIEHS, P.O. Box 12233, K2–03, Research Triangle Park, NC 27709. Phone: 919–541–9834, Fax: 301–480–3272, Email: *whiteld@niehs.nih.gov.* Hand Deliver/Courier address: 530 Davis Drive, Room K2124, Morrisville, NC 27560.

SUPPLEMENTARY INFORMATION:

Meeting and Registration: The meeting is open to the public with time scheduled for oral public comments; attendance at the meeting is limited only by the space available.

The BSC will provide input to the NTP on programmatic activities and issues. A preliminary agenda, roster of BSC members, background materials, public comments, and any additional information, when available, will be posted on the BSC meeting Web site (*http://ntp.niehs.nih.gov/go/165*) or may be requested in hardcopy from the Designated Federal Officer for the BSC. Following the meeting, summary minutes will be prepared and made available on the BSC meeting Web site.

The public may attend the meeting in person or view the webcast. Registration is required to view the webcast; the URL for the webcast will be provided in the email confirming registration. Individuals who plan to provide oral comments (see below) are encouraged to register online at the BSC meeting Web site (*http://ntp.niehs.nih.gov/go/165*) by June 3, 2014, to facilitate planning for the meeting. Individuals interested in this meeting are encouraged to access the Web site to stay abreast of the most current information regarding the meeting. Visitor and security information for those attending in-person is available at *niehs.nih.gov/about/visiting/index.cfm.* Individuals with disabilities who need accommodation to participate in this event should contact Dr. White at phone: (919) 541–9834 or email: *whiteld@niehs.nih.gov.* TTY users should contact the Federal TTY Relay Service at 800–877–8339. Requests should be made at least five business days in advance of the event.

Request for Comments: Written comments submitted in response to this notice should be received by June 3, 2014. Comments will be posted on the BSC meeting Web site and persons submitting them will be identified by their name and affiliation and/or sponsoring organization, if applicable. Persons submitting written comments should include their name, affiliation (if applicable), phone, email, and sponsoring organization (if any) with the document.

Time is allotted during the meeting for the public to present oral comments to the BSC on the agenda topics. Public comments can be presented in-person at the meeting or by teleconference line. There are 50 lines for this call; availability is on a first-come, first-served basis. The lines will be open from 8:30 each day until adjournment, although the BSC will receive public comments only during the formal public comment periods, which are indicated on the preliminary agenda. Each organization is allowed one time slot per agenda topic. Each speaker is allotted at least 7 minutes, which if time permits, may be extended to 10 minutes at the discretion of the BSC chair. Persons wishing to present oral comments should register on the BSC meeting Web site by June 10, 2014, indicate whether they will present comments in-person or via the teleconference line, and indicate the topic(s) on which they plan to comment. The access number for the teleconference line will be provided to registrants by email prior to the meeting. On-site registration for oral comments will also be available on the meeting day, although time allowed for comments by these registrants may be limited and will be determined by the number of persons who register at the meeting.

Persons registering to make oral comments are asked to send a copy of their statement and/or PowerPoint slides to the Designated Federal Officer by June 10, 2014. Written statements can supplement and may expand upon the oral presentation. If registering on-site and reading from written text, please bring 40 copies of the statement for distribution to the BSC and NTP staff and to supplement the record.

Background Information on the BSC: The BSC is a technical advisory body comprised of scientists from the public and private sectors that provides

primary scientific oversight to the NTP. Specifically, the BSC advises the NTP on matters of scientific program content, both present and future, and conducts periodic review of the program for the purpose of determining and advising on the scientific merit of its activities and their overall scientific quality. Its members are selected from recognized authorities knowledgeable in fields such as toxicology, pharmacology, pathology, biochemistry, epidemiology, risk assessment, carcinogenesis, mutagenesis, molecular biology, behavioral toxicology, neurotoxicology, immunotoxicology, reproductive toxicology or teratology, and biostatistics. Members serve overlapping terms of up to four years. The BSC usually meets biannually. The authority for the BSC is provided by 42 U.S.C. 217a, section 222 of the Public Health Service Act (PHS), as amended. The BSC is governed by the provisions of the Federal Advisory Committee Act, as amended (5 U.S.C. app.), which sets forth standards for the formation and use of advisory committees.

Dated: May 2, 2014.

John R. Bucher,

Associate Director, National Toxicology Program.

[FR Doc. 2014–10907 Filed 5–12–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group; Pathophysiological Basis of Mental Disorders and Addictions Study Section.

Date: June 2–3, 2014.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites DC Convention Center, 900 10th Street NW., Washington, DC 20001.

Contact Person: Julius Cinque, MS, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5186, MSC 7846, Bethesda, MD 20892, (301) 435–1252, *cinquej@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Risk, Prevention and Intervention for Addictions.

Date: June 6, 2014.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Renaissance Mayflower Hotel, 1127 Connecticut Avenue NW., Washington, DC 20036.

Contact Person: Lee S Mann, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3224, MSC 7808, Bethesda, MD 20892, 301–435–0677, *mannl@csr.nih.gov.*

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group; Neurotoxicology and Alcohol Study Section.

Date: June 9, 2014.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites Hotel, 4300 Military Road, Washington, DC 20015.

Contact Person: Christine Melchior, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5176 MSC 7844, Bethesda, MD 20892, (301) 435–1713, *melchioc@csr.nih.gov.*

Name of Committee: Oncology 1—Basic Translational Integrated Review Group; Tumor Cell Biology Study Section.

Date: June 9–10, 2014.

Time: 8:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW., Washington, DC 20015.

Contact Person: Charles Morrow, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6202, MSC 7804, Bethesda, MD 20892, 301–451–4467, *morrowcs@csr.nih.gov.*

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group; Cellular and Molecular Biology of Glia Study Section.

Date: June 9, 2014.

Time: 8:00 a.m. to 6:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel Bethesda, (Formerly Holiday Inn Select), 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Toby Behar, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4136, MSC 7850, Bethesda, MD 20892, (301) 435–4433, *behart@csr.nih.gov.*

Name of Committee: Risk, Prevention and Health Behavior Integrated Review Group; Psychosocial Development, Risk and Prevention Study Section.

Date: June 9–10, 2014.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: J W Marriott New Orleans, 614 Canal Street, New Orleans, LA 70130.

Contact Person: Anna L Riley, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3114, MSC 7759, Bethesda, MD 20892, 301–435–2889, *rileyann@csr.nih.gov.*

Name of Committee: Biobehavioral and Behavioral Processes Integrated Review Group; Motor Function, Speech and Rehabilitation Study Section.

Date: June 9, 2014.

Time: 8:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites Hotel, 900 10th Street NW., Washington, DC 20001.

Contact Person: Biao Tian, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3166, MSC 7848, Bethesda, MD 20892, 301–402–4411, *tianbi@csr.nih.gov.*

Name of Committee: Cell Biology Integrated Review Group; Membrane Biology and Protein Processing Study Section.

Date: June 9, 2014.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Nikko San Francisco, 222 Mason Street, San Francisco, CA 94102.

Contact Person: Janet M Larkin, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5142, MSC 7840, Bethesda, MD 20892, 301–806–2765, *larkinja@csr.nih.gov.*

Name of Committee: Digestive, Kidney and Urological Systems Integrated Review Group; Pathobiology of Kidney Disease Study Section.

Date: June 9, 2014.

Time: 8:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites Hotel—O'Hare Rosemont, 5500 North River Road, Rosemont, IL 60018.

Contact Person: Atul Sahai, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2188, MSC 7818, Bethesda, MD 20892, 301–435–1198, *sahaia@csr.nih.gov.*

Name of Committee: Musculoskeletal, Oral and Skin Sciences Integrated Review Group; Arthritis, Connective Tissue and Skin Study Section.

Date: June 9–10, 2014.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites—Chicago O'Hare—Rosemont, 5500 N. River Road, Rosemont, IL 60018.

Contact Person: Aftab A Ansari, Ph.D., Scientific Review Officer, Center for

Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4108, MSC 7814, Bethesda, MD 20892, 301–237–9931, *ansaria@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Behavior, Sleep, and Neuroinflammation.

Date: June 9, 2014.

Time: 9:00 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: Nicholas Gaiano, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5178, MSC 7844, Bethesda, MD 20892–7844, 301–435–1033, *gaianonr@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: May 7, 2014.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–10911 Filed 5–12–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel; Research to Improve the Care of Persons at Clinical High Risk for Psychotic Disorders.

Date: June 3, 2014.

Time: 1:30 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: David I. Sommers, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, National Institutes of Health, 6001 Executive Blvd., Room 6154, MSC 9606, Bethesda, MD 20892–9606, 301–443–7861, *dsommers@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program No. 93.242, Mental Health Research Grants, National Institutes of Health, HHS)

Dated: May 7, 2014.

Carolyn A. Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–10908 Filed 5–12–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; Roybal.

Date: July 18, 2014.

Time: 8:00 a.m. to 6:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, Suite 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20892

Contact Person: Rebecca J. Ferrell, Ph.D., Scientific Review Officer, National Institute On Aging, Gateway Building, Rm. 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20892, 301–402–7703, *ferrellrj@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: May 8, 2014.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–10906 Filed 5–12–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Human Genome Research Institute Initial Review Group; Genome Research Review Committee.

Date: June 5, 2014.

Time: 11:30 a.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Human Genome Research Institute, Room 3146, 5635 Fishers Lane, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Lita Proctor, Ph.D., Extramural Research Programs Staff, Program Director, Human Microbiome Project, National Human Genome Research Institute, 5635 Fishers Lane, Suite 4076, Bethesda, MD 20892, 301 496–4550, *proctorlm@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: May 7, 2014.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–10912 Filed 5–12–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C.,

as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Deafness and Other Communication Disorders Special Emphasis Panel; VSL Fellowship Review.

Date: June 9, 2014.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Kausik Ray, Ph.D., Scientific Review Officer, National Institute on Deafness and Other Communication Disorders, National Institutes of Health Rockville, MD 20850, 301–402–3587, *rayk@nidcd.nih.gov.*

Name of Committee: National Institute on Deafness and Other Communication Disorders Special Emphasis Panel; Chemosensory Fellowship Review.

Date: June 11, 2014.

Time: 12:00 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive, Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Sheo Singh, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, 6001 Executive Blvd., Room 8351, Bethesda, MD 20892, 301–496–8683, *singhs@nidcd.nih.gov.*

Name of Committee: Communication Disorders Review Committee.

Date: June 12–13, 2014.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW., Washington, DC 20015.

Contact Person: Shiguang Yang, DVM, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, NIDCD, NIH, 6001 Executive Blvd., Room 8349, Bethesda, MD 20892, 301–435–1425, *yangshi@nidcd.nih.gov.*

Name of Committee: National Institute on Deafness and Other Communication Disorders Special Emphasis Panel; Hearing and Balance Fellowship Review.

Date: June 18, 2014.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Eliane Lazar-Wesley, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, 6001 Executive Boulevard, Room 8339, MSC 9670, Bethesda, MD 20892–8401, 301–496–8683, *el6r@nih.gov.*

Name of Committee: National Institute on Deafness and Other Communication Disorders Special Emphasis Panel; P50 Review.

Date: July 17, 2014.

Time: 11:00 a.m. to 1:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Sheo Singh, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, 6001 Executive Blvd., Room 8351, Bethesda, MD 20892, 301–496–8683, *singhs@nidcd.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: May 7, 2014.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–10891 Filed 5–12–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the meeting of the Council of Councils.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

A portion of 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: Council of Councils.

Open: June 20, 2014.

Time: 8:15 a.m. to 11:15 a.m.

Agenda: Council Business Matters and Updates; Aquatic/Zebrafish Model Resources; NIH Update.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31, C Wing, 6th Floor, Conference Room 6, Bethesda, MD 20892.

Closed: June 20, 2014.

Time: 12:00 p.m. to 1:00 p.m.

Agenda: Review of grant applications.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31, C Wing, 6th Floor, Conference Room 6, Bethesda, MD 20892.

Open: June 20, 2014.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: Updates on Cleared Concepts Being Developed into Common Fund Programs, New Common Fund Concept Clearances, Early Independence Award Process Evaluation and Discussion, Update on Common Fund Planning and Management Evaluation Report.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31, C Wing, 6th Floor, Conference Room 6, Bethesda, MD 20892.

Contact Person: Franziska Grieder, DVM, Ph.D., Executive Secretary, Director, Office of Research Infrastructure Programs, Division of Program Coordination, Planning, and Strategic Initiatives, Office of the Director, NIH, 6701 Democracy Boulevard, Room 948, Bethesda, MD 20892, *GriederF@mail.nih.gov,* 301–435–0744.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person. Information is also available on the Council of Council's home page at *http://dpcpsi.nih.gov/council/where* an agenda will be posted before the meeting date.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

(Catalogue of Federal Domestic Assistance Program Nos. 93.14, Intramural Research Training Award; 93.22, Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally; 93.39, Academic Research Enhancement Award; 93.936, NIH Acquired Immunodeficiency Syndrome Research Loan Repayment Program; 93.187, Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds, National Institutes of Health, HHS)

Dated: May 7, 2014.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–10909 Filed 5–12–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Request for Information: The National Toxicology Program Interagency Center for the Evaluation of Alternative Toxicological Methods Requests the Nomination of Reference Chemicals

SUMMARY: The National Toxicology Program (NTP) Interagency Center for the Evaluation of Alternative Toxicological Methods (NICEATM) requests the nomination of reference chemicals, with supporting data, to be used to validate *in vitro* metabolizing systems with the potential to interact with estrogen receptors (ERs) or androgen receptors (ARs). Specifically, a list of chemicals is needed to characterize the usefulness and limitations of *in vitro* metabolizing systems for use in conjunction with ER and AR transactivation tests.

DATES: The deadline for receipt of information is June 2, 2014.

ADDRESSES: Nominated reference chemicals and associated data should be submitted electronically in Microsoft® Excel or Word formats to *niceatm@niehs.nih.gov.* A Microsoft® Excel template for data submission is available at *http://ntp.niehs.nih.gov/go/41493.*

FOR FURTHER INFORMATION CONTACT: Dr. Warren S. Casey, Director, NICEATM; email: *warren.casey@nih.gov;* telephone: (919) 316–4729.

SUPPLEMENTARY INFORMATION:

Background

Endocrine-active substances (EAS) are chemicals that interfere with normal endocrine hormone function by mimicking, blocking, or increasing their actions, thereby possibly causing adverse health effects. United States legislation (e.g., 7 U.S.C. 136, 110 Stat 1613) requires that chemicals be tested for their ability to disrupt the hormonal systems of mammals; prospective international legislative proposals may have similar requirements. Chemicals found to test positive *in vitro* as EAS may be *in vivo* endocrine disruptors. The lack of *in vitro* tools that mimic *in vivo* metabolism is the main obstacle to implementation of *in vitro* tools for EAS toxicity testing. Improved understanding of metabolic capabilities and limitations of *in vitro* toxicity testing is critical to:

- Ensure that no potentially active metabolites are missed
- Allow better interpretation of results
- Accurately predict species-specific characteristics of absorption, metabolism, and excretion

While there is a growing body of international *in vitro* test guidelines addressing EAS mechanisms and modes of action, there are few or no standardized methods to incorporate metabolic and toxicokinetic aspects into these EAS *in vitro* tests to date. *In vitro* assays for EAS should incorporate metabolic enzyme systems to better address the relevance of EAS tests to *in vivo* adverse outcome pathways.

The Organization for Economic Co-operation and Development (OECD) Validation Management Group-Non-Animal (VMG–NA) expert working group develops internationally accepted non-animal test guidelines to support various international regulatory needs for the hazard identification of potential EAS. These test guidelines describe methods and approaches capable of identifying potential EAS without the use of animals. Consistent with its purpose of evaluating alternative methods for testing chemicals and chemical products, NICEATM participates in the VMG–NA.

Test guidelines for *in vitro* assays for ER activity have been evaluated and accepted by international regulatory authorities; test guidelines for *in vitro* AR activity assays are currently in development. However, none of these *in vitro* EAS assays account for whole animal metabolism. Further development of specific tests is needed to optimize the use of *in vitro* metabolism with EAS assays. Identification of appropriate reference chemicals to check the metabolic capacity of any proposed test method is key to continued assay development. For this purpose, the VMG–NA is developing a robust list of chemicals that, when metabolized, act as ER or AR agonist or antagonists.

Request for Information

On behalf of the VMG–NA, NICEATM requests nominations of chemicals that can be used to characterize and validate *in vitro* metabolizing systems for use in conjunction with *in vitro* tests for ER and AR transactivation. Responses are requested from all interested parties, including the research community, health professionals, educators, policy makers, industry, and the public. Considerations for selection of appropriate chemicals include the ability of a chemical to act as an ER or AR agonist or antagonist and:

- Potential for metabolism to make a chemical either more potent (bioactivation) or less potent (detoxification)
- Likelihood of metabolism occurring in relevant routes of exposure and target organs
- Likelihood of metabolism occurring over a range of doses: Information on the ratio of the half maximal effective or inhibitory concentration (EC50 or IC50, respectively) of parent to daughter metabolites will be useful and there is a particular need for information pertaining to substances where biotransformation yields a very small or very large ratio of EC50/IC50 of parent to daughter metabolites
- Stability, preferably with real-time curves and consequent exposure significance of likely metabolites
- Diversity of likely and predominant biotransformative pathways
- Diversity of chemical types, use classes, and consequent applicability domains

The reference chemicals will be used to check the metabolic capacity of the *in vitro* model, including characterization of the general metabolic capacity of the cell lines. To ensure relevant use in a regulatory context, it will be necessary, where possible, to make correlations to:

(a) Relevant *in vivo* metabolic modeling (accounting for absorption, distribution, metabolism, and excretion, etc.) of plasma/blood metabolites in vertebrate animals (e.g., rat, fish, human).

(b) Data from the uterotrophic, Hershberger, and/or other relevant assays with a demonstrated high confidence in prediction of bioactivation of estrogenic or androgenic agonist and antagonist pathways, such that the true systemic *in vivo* metabolic response is addressed as accurately as possible.

When reporting the *in vitro* dose response for potential reference chemicals, the concentrations of solvent and/or carrier proteins used in the assay buffers to solubilize the reference chemicals should be described to facilitate an understanding of potential differences among new *in vitro* assays with regard to free concentrations of parent chemical and metabolites versus nominal dosages within each testing system.

Nominated reference chemicals and associated data should be submitted electronically in Microsoft® Excel or Word formats to *niceatm@niehs.nih.gov.* Data submitted can include, but need

not be limited to, citations of reports in the published literature, data from past or ongoing validation studies, data in databases, or unpublished data. A template for data submission is available at *http://ntp.niehs.nih.gov/go/41493.*

Responses to this request are voluntary. NICEATM does not intend to publish a summary of responses received or any other information provided. No proprietary, classified, confidential, or sensitive information should be included in your response. Please note that the U.S. Government will not pay for the preparation of any information submitted or for its use of that information.

Those submitting information should include name, affiliation, mailing address, phone, fax, email address, and sponsoring organization (if any) with the submission. The deadline for receipt of the requested information is June 2, 2014.

Background Information on NICEATM

NICEATM conducts data analyses, workshops, independent validation studies, and other activities to assess new, revised, and alternative test methods and strategies and provides support for the Interagency Coordinating Committee on the Validation of Alternative Methods (ICCVAM). The ICCVAM Authorization Act of 2000 (42 U.S.C. 285*l*–3) provides authority for ICCVAM and NICEATM to conduct activities relevant to the development of alternative test methods. Information about NICEATM and ICCVAM is found at *http://ntp.niehs.nih.gov/go/niceatm* and *http://ntp.niehs.nih.gov/go/iccvam.*

Dated: May 7, 2014.

John R. Bucher,

Associate Director, National Toxicology Program.

[FR Doc. 2014–10892 Filed 5–12–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2014–0002]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final notice.

SUMMARY: New or modified Base (1% 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: The effective date for each LOMR is indicated 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 *www.msc.fema.gov.*

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *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 ninety (90) days have elapsed since that publication. The Deputy Associate Administrator for 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 also 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 *www.msc.fema.gov.*

State and county	Location and case No.	Chief executive officer of community	Community map repository	Effective date of modification	Community No.
Alabama:					
Jefferson (FEMA Docket No.: B–1403).	City of Bessemer (13–04–7454P).	The Honorable Kenneth E. Gulley, Mayor, City of Bessemer, 1800 3rd Avenue, North Bessemer, AL 35020.	City Hall, Engineering Department, 1800 3rd Avenue North, Bessemer, AL 35020.	March 13, 2014	010115
Jefferson (FEMA Docket No.: B–1403).	Unincorporated areas of Jefferson County (13–04–7454P).	The Honorable David Carrington, Chairman, Jefferson County Commission, 716 Richard Arrington, Jr., Boulevard North, Birmingham, AL 35203.	Jefferson County Land Development Department, 716 Richard Arrington, Jr., Boulevard North, Suite 260, Birmingham, AL 35203.	March 13, 2014	010217

State and county	Location and case No.	Chief executive officer of community	Community map repository	Effective date of modification	Community No.
Tuscaloosa (FEMA Docket No.: B–1357).	City of Tuscaloosa (13–04–7373P).	The Honorable Walter Maddox, Mayor, City of Tuscaloosa, 2201 University Boulevard, Tuscaloosa, AL 35401.	Engineering Department, 2201 University Boulevard, Tuscaloosa, AL 35401.	February 7, 2014	010203
Arizona:					
Maricopa (FEMA Docket No.: B–1403).	Town of Buckeye (13–09–2406P).	The Honorable Jackie A. Meck, Mayor, Town of Buckeye, 530 East Monroe Avenue, Buckeye, AZ 85326.	Town Hall, 100 North Apache Street, Suite A, Buckeye, AZ 85326.	March 14, 2014	040039
Maricopa (FEMA Docket No.: B–1403).	Unincorporated areas of Maricopa County (13–09–2406P).	The Honorable Andrew Kunasek, Chairman, Maricopa County Board of Supervisors, 301 West Jefferson Street, 10th Floor, Phoenix, AZ 85003.	Maricopa County Flood Control District, 2801 West Durango Street Phoenix, AZ 85009.	March 14, 2014	040037
Pima (FEMA Docket No.: B–1357).	Unincorporated areas of Pima County (13–09–0833P).	The Honorable Ramon Valadez, Chairman, Pima County Board of Supervisors, 130 West Congress Street, 11th Floor, Tucson, AZ 85701.	Pima County Flood Control District, 97 East Congress Street, 3rd Floor, Tucson, AZ 85701.	January 24, 2014	040073
Pima (FEMA Docket No.: B–1403).	Unincorporated areas of Pima County (13–09–2458P).	The Honorable Ramon Valadez, Chairman, Pima County Board of Supervisors, 130 West Congress Street, 11th Floor, Tucson, AZ 85701.	Pima County Flood Control District, 97 East Congress Street, 3rd Floor, Tucson, AZ 85701.	February 7, 2014	040073
Pinal (FEMA Docket No.: B–1357).	City of Maricopa (13–09–0781P).	The Honorable Christian Price, Mayor, City of Maricopa, P.O. Box 610, Maricopa, AZ 85139.	City Clerk's Department, 39700 West Civic, Center Plaza, Maricopa, AZ 85138.	January 24, 2014	040052
Yavapai (FEMA Docket No.: B–1403).	Unincorporated areas of Yavapai County (13–09–0731P).	The Honorable Chip Davis, Chairman, Yavapai County Board of Supervisors, 10 South 6th Street, Cottonwood, AZ 86326.	Yavapai County Flood Control District, 500 South Marina Street, Prescott, AZ 86303.	March 7, 2014	040093
California:					
Humboldt (FEMA Docket No.: B–1403).	City of Arcata (13–09–2457P).	The Honorable Shane Brinton, Mayor, City of Arcata, 736 F Street, Arcata, CA 95521.	Public Works Department, 736 F Street, Arcata, CA 95521.	February 28, 2014	060061
Los Angeles (FEMA Docket No.: B–1357).	City of Santa Clarita (13–09–2046P).	The Honorable Bob Kellar, Mayor, City of Santa Clarita, 23920 Valencia Boulevard, Santa Clarita, CA 91355.	City Hall, 23920 Valencia Boulevard, Santa Clarita, CA 91355.	February 7, 2014	060729
San Luis Obispo (FEMA Docket No.: B–1357).	City of San Luis Obispo (13–09–2401P).	The Honorable Jan Howell Marx, Mayor, City of San Luis Obispo, 990 Palm Street, San Luis Obispo, CA 93401.	Public Works Department, 919 Palm Street, San Luis Obispo, CA 93401.	January 31, 2014	060310
Ventura (FEMA Docket No.: B–1357).	City of Camarillo (13–09–1000P).	The Honorable Charlotte Craven, Mayor, City of Camarillo, 601 Carmen Drive, Camarillo, CA 93010.	Public Works Department, 601 Carmen Drive, Camarillo, CA 93010.	January 31, 2014	065020
Ventura (FEMA Docket No.: B–1357).	Unincorporated areas of Ventura County (13–09–1000P).	The Honorable Peter C. Foy, Chairman, Ventura County, Board of Supervisors, 800 South Victoria Avenue, Ventura, CA 93009.	Ventura County Hall of Administration, Public Works Agency, 800 South Victoria Avenue, Ventura, CA 93009.	January 31, 2014	060413
Colorado:					
Boulder (FEMA Docket No.: B–1357).	City of Lafayette (13–08–0605P).	The Honorable Carolyn Cutler, Mayor, City of Lafayette, 1290 South Public Road, Lafayette, CO 80026.	City Hall, 1290 South Public Road, Lafayette, CO 80026.	January 24, 2014	080026
Boulder (FEMA Docket No.: B–1357).	City of Louisville (13–08–0605P).	The Honorable Bob Muckle, Mayor, City of Louisville, 1101 Lincoln Avenue, Louisville, CO 80027.	City Hall, 749 Main Street, Louisville, CO 80027.	January 24, 2014	085076
Denver (FEMA Docket No.: B–1357).	City and County of Denver (13–08–0332P).	The Honorable Michael B. Hancock, Mayor, City and County of Denver, 1437 North Bannock Street, Suite 350, Denver, CO 80202.	Department of Public Works, 201 West Colfax Avenue, Denver, CO 80202.	February 12, 2014	080046
Douglas (FEMA Docket No.: B–1403).	Town of Parker (13–08–0607P).	The Honorable Mike Waid, Mayor, Town of Parker, 20120 East Main Street, Parker, CO 80138.	Public Works Department, 20120 East Main Street, Parker, CO 80138.	March 14, 2014	080310
El Paso (FEMA Docket No.: B–1403).	City of Colorado Springs (13–08–1078P).	The Honorable Steve Bach, Mayor, City of Colorado Springs, 30 South Nevada Avenue, Colorado Springs, CO 80903.	Floodplain Administrator's Office, 2880 International Circle, Colorado Springs, CO 80910.	March 14, 2014	080060
Jefferson (FEMA Docket No.: B–1403).	City of Lakewood (13–08–0333P).	The Honorable Bob Murphy, Mayor, City of Lakewood, 480 South Allison Parkway, Lakewood, CO 80226.	Engineering Department, 480 South Allison Parkway, Lakewood, CO 80226.	February 28, 2014	085075
Florida:					
Collier (FEMA Docket No.: B–1357).	City of Naples (13–04–5410P).	The Honorable John F. Sorey III, Mayor, City of Naples, 735 8th Street South, Naples, FL 34102.	Building Department, 295 Riverside Circle, Naples, FL 34102.	January 24, 2014	125130
Orange (FEMA Docket No.: B–1403).	City of Maitland (13–04–7033P).	The Honorable Howard Schieferdecker, Mayor, City of Maitland, Maitland Municipal Complex, 1776 Independence Lane, Maitland, FL 32751.	City Hall, 1776 Independence Lane, Maitland, FL 32751.	March 7, 2014	120184
Orange (FEMA Docket No.: B–1403).	City of Orlando (13–04–7033P).	The Honorable Buddy Dyer, Mayor, City of Orlando, P.O. Box 4990, Orlando, FL 32808.	Permitting Services Division, 400 South Orange Avenue, Orlando, FL 32801.	March 7, 2014	120186
Orange (FEMA Docket No.: B–1357).	City of Orlando (13–04–2963P).	The Honorable Buddy Dyer, Mayor, City of Orlando, P.O. Box 4990, Orlando, FL 32808.	Permitting Services Department, 400 South Orange Avenue, Orlando, FL 32801.	February 7, 2014	120186
Orange (FEMA Docket No.: B–1403).	City of Winter Park (13–04–7033P).	The Honorable Kenneth W. Bradley, Mayor, City of Winter Park, 401 South Park Avenue, Winter Park, FL 32789.	City Hall, 401 South Park Avenue, Winter Park, FL 32789.	March 7, 2014	120188

State and county	Location and case No.	Chief executive officer of community	Community map repository	Effective date of modification	Community No.
Orange (FEMA Docket No.: B–1403).	Unincorporated areas of Orange County (13–04–7033P).	The Honorable Teresa Jacobs, Mayor, Orange County, 201 South Rosalind Avenue, 5th Floor, Orlando, FL 32801.	Orange County Stormwater, Management Division, 4200 South John Young Parkway, Orlando, FL 32839.	March 7, 2014	120179
Orange (FEMA Docket No.: B–1357).	Unincorporated areas of Orange County (13–04–2963P).	The Honorable Teresa Jacobs, Mayor, Orange County, 201 South Rosalind Avenue, 5th Floor, Orlando, FL 32801.	Orange County Stormwater, Management Division, 4200 South John Young Parkway, Orlando, FL 32839.	February 7, 2014	120179
Sarasota (FEMA Docket No.: B–1357).	City of Sarasota (13–04–6594P).	The Honorable Shannon Snyder, Mayor, City of Sarasota, 1565 1st Street, Room 101, Sarasota, FL 34236.	City Hall, 1565 1st Street, Sarasota, FL 34236.	January 31, 2014	125150
Sarasota (FEMA Docket No.: B–1357).	Unincorporated areas of Sarasota County (13–04–6707P).	The Honorable Carolyn Mason, Chair, Sarasota County Commission, 1660 Ringling Boulevard, Sarasota, FL 34236.	Sarasota County Stormwater, Management Division, 1001 Sarasota Center Boulevard, Sarasota, FL 34240.	February 12, 2014	125144
Seminole (FEMA Docket No.: B–1403).	City of Casselberry (13–04–7033P).	The Honorable Charlene Glancy, Mayor, City of Casselberry, 95 Triplet Lake Drive, Casselberry, FL 32707.	Fire/Public Works Administration, 95 Triplet Lake Drive, Casselberry, FL 32707.	March 7, 2014	120291
Seminole (FEMA Docket No.: B–1403).	Unincorporated areas of Seminole County (13–04–7033P).	The Honorable Bob Dallari, Chairman, Seminole County Board of Commissioners, 1101 East 1st Street, Sanford, FL 32771.	County Services Building, 1101 East 1st Street, Sanford, FL 32771.	March 7, 2014	120289
Sumter (FEMA Docket No.: B–1357).	Unincorporated areas of Sumter County (13–04–5645P).	The Honorable Doug Gilpin, Chairman, Sumter County Board of Commissioners, 7375 Powell Road, Wildwood, FL 34785.	Sumter County Planning Department, 7375 Powell Road, Wildwood, FL 34785.	February 7, 2014	120296
Georgia: Forsyth (FEMA Docket No.: B–1357).	Unincorporated areas of Forsyth County (13–04–6334P).	The Honorable R. J. Amos, Chairman, Forsyth County Board of Commissioners, 110 East Main Street, Suite 210, Cumming, GA 30040.	Forsyth County, Administration Building, 110 East Main Street, Suite 120, Cumming, GA 30040.	January 9, 2014	130312
Hawaii:					
Hawaii (FEMA Docket No.: B–1357).	Hawaii County (13–09–2129P).	The Honorable William P. Kenoi, Mayor, Hawaii County, 25 Aupuni Street, Hilo, HI 96720.	Hawaii County Public Works Department, 101 Pauahi Street, Suite 7, Hilo, HI 96720.	February 7, 2014	155166
Hawaii (FEMA Docket No.: B–1403).	Hawaii County (13–09–2580P).	The Honorable William P. Kenoi, Mayor, Hawaii County, 25 Aupuni Street, Hilo, HI 96720.	Hawaii County Public Works Department, 101 Pauahi Street, Suite 7, Hilo, HI 96720.	February 21, 2014	155166
Kentucky: Christian (FEMA Docket No.: B–1357).	City of Hopkinsville (13–04–5407P).	The Honorable Dan Kemp, Mayor, City of Hopkinsville, 101 North Main Street, Hopkinsville, KY 42240.	Lackey Municipal Building, 101 North Main Street, Hopkinsville, KY 42240.	January 31, 2014	210055
Mississippi:					
Jones (FEMA Docket No.: B–1403).	City of Ellisville (13–04–1560P).	The Honorable Tim Waldrup, Mayor, City of Ellisville, 110 North Court Street, Ellisville, MS 39437.	City Hall, 110 North Court Street, Ellisville, MS 39437.	February 28, 2014	280091
Jones (FEMA Docket No.: B–1403).	Unincorporated areas of Jones County (13–04–1560P).	The Honorable Andy Dial, President, Jones County Board of Supervisors, P.O. Box 1468, Laurel, MS 39441.	Jones County Courthouse, 415 North 5th Avenue, Laurel, MS 39441.	February 28, 2014	280222
Union (FEMA Docket No.: B–1403).	Unincorporated areas of Union County (13–04–3496P).	The Honorable Danny Jordan, President, Union County Board of Supervisors, 109 East Main Street, New Albany, MS 38652.	Union County Courthouse, 109 East Main Street, New Albany, MS 38652.	March 10, 2014	280237
Nevada: Douglas (FEMA Docket No.: B–1357).	Unincorporated areas of Douglas County (13–09–2041P).	The Honorable Greg Lynn, Chairman, Douglas County Board of Commissioners, P.O. Box 218, Minden, NV 89423.	Douglas County Community Development Department, Planning Division, 1594 Esmeralda Avenue, Minden, NV 89423.	January 27, 2014	320008
North Carolina:					
Haywood (FEMA Docket No.: B–1350).	Unincorporated areas of Haywood County (13–04–3050P).	The Honorable Mark Swanger, Chairman, Haywood County Board of Commissioners, 215 North Main Street, Waynesville, NC 28786.	Haywood County Planning Office, 1233 North Main Street, Waynesville, NC 28786.	November 19, 2013	370120
Henderson (FEMA Docket No.: B–1357).	Unincorporated areas of Henderson County (12–04–1370P).	The Honorable Charles Messer, Chairman, Henderson County Board of Commissioners, 1 Historic Courthouse Square, Suite 1, Hendersonville, NC 28792.	100 North King Street, Hendersonville, NC 28792.	January 2, 2014	370125
Lee (FEMA Docket No.: B–1357).	Unincorporated areas of Lee County (11–04–7013P).	The Honorable Charlie Parks, Chairman, Lee County Board of Commissioners, P.O. Box 1968, Sanford, NC 27331.	Summit Building, 408 Summit Drive, Sanford, NC 27331.	January 15, 2014	370331
McDowell (FEMA Docket No.: B–1357).	Unincorporated areas of McDowell County (11–04–8431P).	The Honorable Randy Hollifield, Chairman, McDowell County Board of Commissioners, County Administration Building, 60 East Court Street, Marion, NC 28752.	County Administration Building, 60 East Court Street, Marion, NC 28752.	December 26, 2013	370148
Wake (FEMA Docket No.: B–1357).	Town of Cary (13–04–3068P).	The Honorable Harold Weinbrecht, Jr., Mayor, Town of Cary, P.O. Box 8005, Cary, NC 27512.	Stormwater Services Division, 316 North Academy Street, Cary, NC 27512.	January 30, 2014	370238
Wake (FEMA Docket No.: B–1357).	Town of Cary (12–04–8021P).	The Honorable Harold Weinbrecht, Jr., Mayor, Town of Cary, P.O. Box 8005, Cary, NC 27512.	Stormwater Services Division, 316 North Academy Street, Cary, NC 27512.	February 13, 2014	370238
South Carolina:					

State and county	Location and case No.	Chief executive officer of community	Community map repository	Effective date of modification	Community No.
Charleston (FEMA Docket No.: B–1357).	City of Charleston (13–04–5644P).	The Honorable Joseph P. Riley, Jr., Mayor, City of Charleston, P.O. Box 652, Charleston, SC 29402.	Department of Public Service, 75 Calhoun Street, 3rd Floor, Charleston, SC 29401.	January 31, 2014	455412
Charleston (FEMA Docket No.: B–1357).	Unincorporated areas of Charleston County (13–04–5644P).	The Honorable Teddie E. Pryor, Sr., Chairman, Charleston County Council, 4045 Bridge View Drive, North Charleston, SC 29405.	Charleston County Public Services Building, 4045 Bridge View Drive, North Charleston, SC 29405.	January 31, 2014	455413
York (FEMA Docket No.: B–1403).	City of Rock Hill (13–04–4084P).	The Honorable Doug Echols, Mayor, City of Rock Hill, 155 Johnson Street, Rock Hill, SC 29731.	City Hall, 155 Johnson Street, Rock Hill, SC 29731.	February 7, 2014	450196
York (FEMA Docket No.: B–1403).	Unincorporated areas of York County (13–04–4084P).	The Honorable J. Britt Blackwell, Chairman, York County Council, 6 South Congress Street, York, SC 29745.	York County, Engineering Department, 6 South Congress Street, York, SC 29745.	February 7, 2014	450193
South Dakota: Lawrence (FEMA Docket No.: B–1357).	City of Spearfish (13–08–0834P).	The Honorable Dana Boke, Mayor, City of Spearfish, 625 North 5th Street, Spearfish, SD 57783.	Public Works Department, 625 North 5th Street, Spearfish, SD 57783.	February 12, 2014	460046
Utah:					
Davis (FEMA Docket No.: B–1357).	City of Farmington (13–08–0082P).	The Honorable Scott Harbertson, Mayor, City of Farmington, P.O. Box 160, Farmington, UT 84025.	City Hall, 160 South Main Street, Farmington, UT 84025.	February 7, 2014	490044
Davis (FEMA Docket No.: B–1357).	Unincorporated areas of Davis County (13–08–0082P).	The Honorable John Petroff, Jr., Chairman, Davis County Board of Commissioners, P.O. Box 618, Farmington, UT 84025.	Davis County Planning Department, 61 South Main Street, Farmington, UT 84025.	February 7, 2014	490038

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: April 22, 2014.

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2014–11010 Filed 5–12–14; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2014–0002; Internal Agency Docket No. FEMA–B–1411]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice lists communities where the addition or modification of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or the regulatory floodway (hereinafter referred to as flood hazard determinations), as shown on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports, prepared by the Federal Emergency Management Agency (FEMA) for each community, is appropriate because of new scientific or technical data. The FIRM, and where applicable, portions of the FIS report, have been revised to reflect these flood hazard determinations through issuance of a Letter of Map Revision (LOMR), in accordance with Title 44, part 65 of the Code of Federal Regulations (44 CFR part 65). The LOMR will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings. For rating purposes, the currently effective community number is shown in the table below and must be used for all new policies and renewals.

DATES: These flood hazard determinations will become effective on the dates listed in the table below and revise the FIRM panels and FIS report in effect prior to this determination for the listed communities.

From the date of the second publication of notification of these changes in a newspaper of local circulation, any person has ninety (90) days in which to request through the community that the Deputy Associate Administrator for Mitigation reconsider the changes. The flood hazard determination information may be changed during the 90-day period.

ADDRESSES: The affected communities are listed in the table below. Revised flood hazard information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

Submit comments and/or appeals to the Chief Executive Officer of the community as listed in the table below.

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The specific flood hazard determinations are not described for each community in this notice. However, the online location and local community map repository address where the flood hazard determination information is available for inspection is provided.

Any request for reconsideration of flood hazard determinations must be submitted to the Chief Executive Officer of the community as listed in the table below.

The modifications are made pursuant to section 201 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.

The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These flood hazard determinations, together with the floodplain

management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. The flood hazard determinations are in accordance with 44 CFR 65.4.

The affected communities are listed in the following table. Flood hazard determination information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Effective date of modification	Community No.
Alabama:						
Baldwin	City of Gulf Shores (13–04–7450P).	The Honorable Robert Craft, Mayor, City of Gulf Shores, P.O. Box 299, Gulf Shores, AL 36547.	Community Development Department, 1905 West 1st Street, Gulf Shores, AL 36547.	*http://www.msc.fema.gov/lomc*	June 16, 2014	015005
Houston	City of Dothan (13–04–5057P).	The Honorable Mike Schmitz, Mayor, City of Dothan, P.O. Box 2128, Dothan, AL 36302.	Engineering Department, 126 North St. Andrews Street, Dothan, AL 36303.	*http://www.msc.fema.gov/lomc*	June 20, 2014	010104
Arizona:						
Greenlee	Unincorporated areas of Greenlee County (13–09–2482P).	The Honorable David Gomez, Chairman, Greenlee County Board of Supervisors, P.O. Box 908, Clifton, AZ 85533.	Greenlee County Planning and Zoning Department, 253 5th Street, Clifton, AZ 85533.	*http://www.msc.fema.gov/lomc*	June 26, 2014	040110
Maricopa	City of Peoria (13–09–2575P).	The Honorable Bob Barrett, Mayor, City of Peoria, 8401 West Monroe Street, Peoria, AZ 85345.	City Hall, 8401 West Monroe Street, Peoria, AZ 85345.	*http://www.msc.fema.gov/lomc*	June 27, 2014	040050
Maricopa	Unincorporated areas of Maricopa County (13–09–2575P).	The Honorable Denny Barney, Chairman, Maricopa County Board of Supervisors, 301 West Jefferson Street, 10th Floor, Phoenix, AZ 85003.	Maricopa County Flood Control District, 2801 West Durango Street, Phoenix, AZ 85009.	*http://www.msc.fema.gov/lomc*	June 27, 2014	040037
Pima	City of Tucson (13–09–3259P).	The Honorable Jonathan Rothschild, Mayor, City of Tucson, 255 West Alameda Street, 10th Floor, Tucson, AZ 85701.	Planning and Development Services Department, 201 North Stone Avenue, 1st Floor, Tucson, AZ 85701.	*http://www.msc.fema.gov/lomc*	July 7, 2014	040076
Pima	Unincorporated areas of Pima County (13–09–3190P).	The Honorable Ramon Valadez, Chairman, Pima County Board of Supervisors, 130 West Congress Street, 11th Floor, Tucson, AZ 85701.	Pima County Flood Control District, 97 East Congress Street, 3rd Floor, Tucson, AZ 85701.	*http://www.msc.fema.gov/lomc*	June 6, 2014	040073
California:						
San Bernardino.	City of Fontana (14–09–0709P).	The Honorable Acquanetta Warren, Mayor, City of Fontana, 8353 Sierra Avenue, Fontana, CA 92335.	Engineering Department, 8353 Sierra Avenue, Fontana, CA 92335.	*http://www.msc.fema.gov/lomc*	June 13, 2014	060274
Sonoma	City of Petaluma (14–09–1064P).	The Honorable David Glass, Mayor, City of Petaluma, 11 English Street, Petaluma, CA 94952.	Department of Public Works and Utilities, 11 English Street, Petaluma, CA 94952.	*http://www.msc.fema.gov/lomc*	June 20, 2014	060379
Florida:						
Bay	City of Panama City Beach (13–04-6018P).	The Honorable Gayle Oberst, Mayor, City of Panama City Beach, 110 South Arnold Road, Panama City Beach, FL 32413.	Building Department, 110 South Arnold Road, Panama City Beach, FL 32413.	*http://www.msc.fema.gov/lomc*	June 20, 2014	120013
Bay	City of Panama City Beach (13–04-8211P).	The Honorable Gayle Oberst, Mayor, City of Panama City Beach, 110 South Arnold Road, Panama City Beach, FL 32413.	Building Department, 110 South Arnold Road, Panama City Beach, FL 32413.	*http://www.msc.fema.gov/lomc*	June 20, 2014	120013

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Effective date of modification	Community No.
Bay	Unincorporated areas of Bay County (13–09-8211P).	The Honorable Guy M. Tunnell, Chairman, Bay County Board of Commissioners, 808 West 11th Street, Panama City, FL 32401.	Bay County Planning and Zoning Department, 707 Jenks Avenue, Suite B, Panama City, FL 32401.	*http://www.msc.fema.gov/lomc*	June 20, 2014	120004
Gulf	Unincorporated areas of Gulf County (13–04-5405P).	The Honorable Ward McDaniel, Chairman, Gulf County Board of Commissioners, 1000 Cecil G. Costin, Sr. Boulevard, Port St. Joe, FL 32456.	Gulf County Courthouse, 1000 Cecil G. Costin, Sr. Boulevard, Suite 311, Port St. Joe, FL 32456.	*http://www.msc.fema.gov/lomc*	June 27, 2014	120098
Pinellas	City of St. Petersburg (13–04-5913P).	The Honorable Rick Kriseman, Mayor, City of St. Petersburg, 175 5th Street North, St. Petersburg, FL 33701.	Municipal Services Center, Permit Division, 1 4th Street North, St. Petersburg, FL 33701.	*http://www.msc.fema.gov/lomc*	June 27, 2014	125148
Sarasota	Town of Longboat Key (12–04-8304P).	The Honorable Jim Brown, Mayor, Town of Longboat Key, 501 Bay Isles Road, Longboat Key, FL 34228.	Planning, Zoning and Building Department, 501 Bay Isles Road, Longboat Key, FL 34228.	*http://www.msc.fema.gov/lomc*	July 7, 2014	125126
Sumter	City of Wildwood (14–04–1328P).	The Honorable Ed Wolf, Mayor, City of Wildwood, 100 North Main Street, Wildwood, FL 34785.	Development Services Department, 100 North Main Street, Wildwood, FL 34785.	*http://www.msc.fema.gov/lomc*	July 11, 2014	120299
New York:						
Dutchess.	Town of LaGrange (14–02-0734P).	The Honorable Alan Bell, Supervisor, LaGrange Town Board, 120 Stringham Road, LaGrangeville, NY 12540.	Town Hall, 120 Stringham Road, LaGrangeville, NY 12540.	*http://www.msc.fema.gov/lomc*	August 11, 2014	361011
North Carolina:						
Wake	Town of Cary (13–04–5160P).	The Honorable Harold Weinbrecht, Mayor, Town of Cary, P.O. Box 8005, Cary, NC 27512.	Town Hall, 316 North Academy Street, Cary, NC 27512.	*http://www.msc.fema.gov/lomc*	May 26, 2014	370238
Wake	Town of Cary (13–04–5161P).	The Honorable Harold Weinbrecht, Mayor, Town of Cary, P.O. Box 8005, Cary, NC 27512.	Town Hall, 316 North Academy Street, Cary, NC 27512.	*http://www.msc.fema.gov/lomc*	May 26, 2014	370238
Wake	Town of Cary (13–04–5162P).	The Honorable Harold Weinbrecht, Mayor, Town of Cary, P.O. Box 8005, Cary, NC 27512.	Town Hall, 316 North Academy Street, Cary, NC 27512.	*http://www.msc.fema.gov/lomc*	May 26, 2014	370238
Wake	Town of Cary (13–04–5163P).	The Honorable Harold Weinbrecht, Mayor, Town of Cary, P.O. Box 8005, Cary, NC 27512.	Town Hall, 316 North Academy Street, Cary, NC 27512.	*http://www.msc.fema.gov/lomc*	May 26, 2014	370238
Wake	Unincorporated areas of Wake County (13–04–5161P).	The Honorable Joe Bryan, Chairman, Wake County Board of Commissioners, P.O. Box 550, Raleigh, NC 27602.	Wake County Office Building, 336 Fayetteville Street, Raleigh, NC 27602.	*http://www.msc.fema.gov/lomc*	May 26, 2014	370368
Wake	Unincorporated areas of Wake County (13–04–5943P).	The Honorable Joe Bryan, Chairman, Wake County Board of Commissioners, P.O. Box 550, Raleigh, NC 27602.	Wake County Office Building, 336 Fayetteville Street, Raleigh, NC 27602.	*http://www.msc.fema.gov/lomc*	May 26, 2014	370368
South Dakota:						
Brown	City of Aberdeen (13–08–0756P).	The Honorable Mike Levsen, Mayor, City of Aberdeen, 123 South Lincoln Street, Aberdeen, SD 57401.	City Engineer's Office, 123 South Lincoln Street, Aberdeen, SD 57401.	*http://www.msc.fema.gov/lomc*	July 11, 2014	460007
Brown	Unincorporated areas of Brown County (13–08–0756P).	The Honorable Duane Sutton, Chairman, Brown County Board of Commissioners, 25 Market Street, Suite 1, Aberdeen, SD 57401.	Brown County Planning and Zoning Department, 25 Market Street, Suite 5, Aberdeen, SD 57401.	*http://www.msc.fema.gov/lomc*	July 11, 2014	460006
Minnehaha	City of Hartford (13–08–1106P).	The Honorable Paul Zimmer, Mayor, City of Hartford, P.O. Box 727, Hartford, SD 57033.	City Hall, 125 North Main Avenue, Hartford, SD 57033.	*http://www.msc.fema.gov/lomc*	June 16, 2014	460180

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Effective date of modification	Community No.
Minnehaha	Unincorporated areas of Minnehaha County (13–08–1106P).	The Honorable Cindy Heiberger, Chair, Minnehaha County Board of Commissioners, 415 North Dakota Avenue, Sioux Falls, SD 57104.	Minnehaha County Planning Department, 415 North Dakota Avenue, Sioux Falls, SD 57104.	*http://www.msc.fema.gov/lomc*	June 16, 2014	460057

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: April 22, 2014.

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2014–11009 Filed 5–12–14; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2014–0002; Internal Agency Docket No. FEMA–B–1408]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice lists communities where the addition or modification of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or the regulatory floodway (hereinafter referred to as flood hazard determinations), as shown on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports, prepared by the Federal Emergency Management Agency (FEMA) for each community, is appropriate because of new scientific or technical data. The FIRM, and where applicable, portions of the FIS report, have been revised to reflect these flood hazard determinations through issuance of a Letter of Map Revision (LOMR), in accordance with Title 44, part 65 of the Code of Federal Regulations (44 CFR part 65). The LOMR will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings. For rating purposes, the currently effective community number is shown in the table below and must be used for all new policies and renewals.

DATES: These flood hazard determinations will become effective on the dates listed in the table below and revise the FIRM panels and FIS report in effect prior to this determination for the listed communities.

From the date of the second publication of notification of these changes in a newspaper of local circulation, any person has ninety (90) days in which to request through the community that the Deputy Associate Administrator for Mitigation reconsider the changes. The flood hazard determination information may be changed during the 90-day period.

ADDRESSES: The affected communities are listed in the table below. Revised flood hazard information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

Submit comments and/or appeals to the Chief Executive Officer of the community as listed in the table below.

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The specific flood hazard determinations are not described for each community in this notice. However, the online location and local community map repository address where the flood hazard determination information is available for inspection is provided.

Any request for reconsideration of flood hazard determinations must be submitted to the Chief Executive Officer of the community as listed in the table below.

The modifications are made pursuant to section 201 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.

The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. The flood hazard determinations are in accordance with 44 CFR 65.4.

The affected communities are listed in the following table. Flood hazard determination information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Effective date of modification	Community No.
Arkansas:						
Benton	City of Bentonville (12–06–3754P).	The Honorable Bob McCaslin, Mayor, City of Bentonville, 117 West Central Avenue, Bentonville, AR 72712.	305 Southwest A Street, Bentonville, AR 72712.	*http://www.msc.fema.gov/lomc*	June 26, 2014	050012
Garland	City of Hot Springs (12–06–3592P).	The Honorable Ruth Carney, Mayor, City of Hot Springs, 133 Convention Boulevard, Hot Springs National Park, AR 71901.	Hot Springs City Hall Annex, 111 Opera Street, Hot Springs National Park, AR 71901.	*http://www.msc.fema.gov/lomc*	June 26, 2014	050084
New Jersey:						
Monmouth	Borough of Shrewsbury (13–02–1926P).	The Honorable Donald W. Burden, Mayor, Borough of Shrewsbury, P.O. Box 7420, Shrewsbury, NJ 07702.	Borough Municipal Complex, 419 Sycamore Avenue, Shrewsbury, NJ 07702.	*http://www.msc.fema.gov/lomc*	May 27, 2014	340326
Morris	Township of Hanover (14–02–0085P).	The Honorable Ronald F. Francioli, Mayor, Township of Hanover, P.O. Box 250, Whippany, NJ 07981.	Hanover Township Municipal Building, 1000 Route 10, Whippany, NJ 07981.	*http://www.msc.fema.gov/lomc*	July 10, 2014	340343
New Mexico: Santa Fe.	City of Santa Fe (13–06–3570P).	The Honorable David Coss, Mayor, City of Santa Fe, 200 Lincoln Avenue, Santa Fe, NM 87504.	200 Lincoln Avenue, Santa Fe, NM 87504.	*http://www.msc.fema.gov/lomc*	July 7, 2014	350070
Oklahoma:						
Kay	City of Ponca City (13–06–3801P).	The Honorable Homer Nicholson, Mayor, City of Ponca City, 516 East Grand Avenue, Ponca City, OK 74601.	City Hall, 516 East Grand Avenue, Ponca City, OK 74601.	*http://www.msc.fema.gov/lomc*	July 10, 2014	400080
Pottawatomie	City of Shawnee (13–06–4706P).	Mr. Brian McDougal, Manager, City of Shawnee, 16 West 9th Street, Shawnee, OK 74801.	City Hall, 16 West 9th Street, Shawnee, OK 74801.	*http://www.msc.fema.gov/lomc*	June 30, 2014	400178
Texas:						
Bexar	City of Helotes (13–06–4596P).	The Honorable Thomas A. Schoolcraft, Mayor, City of Helotes, P.O. Box 507, Helotes, TX 78023.	Development Services Department, 12951 Bandera Road, Helotes, TX 78023.	*http://www.msc.fema.gov/lomc*	May 1, 2014	481643
Bexar	City of San Antonio (13–06–4596P).	The Honorable Julian Castro, Mayor, City of San Antonio, P.O. Box 839966, San Antonio, TX 78283.	Department of Public Works, Storm Water Engineering, 1901 South Alamo Street, 2nd Floor, San Antonio, TX 78204.	*http://www.msc.fema.gov/lomc*	May 1, 2014	480045
Bexar	City of San Antonio (14–06–0172P).	The Honorable Julian Castro, Mayor, City of San Antonio, P.O. Box 839966, San Antonio, TX 78283.	Department of Public Works, Storm Water Engineering, 1901 South Alamo Street, 2nd Floor, San Antonio, TX 78204.	*http://www.msc.fema.gov/lomc*	June 23, 3014	480045
Bexar	City of San Antonio (14–06–0677P).	The Honorable Julian Castro, Mayor, City of San Antonio, P.O. Box 839966, San Antonio, TX 78283.	Department of Public Works, Storm Water Engineering, 1901 South Alamo Street, 2nd Floor, San Antonio, TX 78204.	*http://www.msc.fema.gov/lomc*	June 23, 3014	480045
Bexar	City of San Antonio (14–06–0360P).	The Honorable Julian Castro, Mayor, City of San Antonio, P.O. Box 839966, San Antonio, TX 78283.	Department of Public Works, Storm Water Engineering, 1901 South Alamo Street, 2nd Floor, San Antonio, TX 78204.	*http://www.msc.fema.gov/lomc*	July 14, 2014	480045
Bexar	City of San Antonio (13–06–2351P).	The Honorable Julian Castro, Mayor, City of San Antonio, P.O. Box 839966, San Antonio, TX 78283.	Department of Public Works, Storm Water Engineering, 1901 South Alamo Street, 2nd Floor, San Antonio, TX 78204.	*http://www.msc.fema.gov/lomc*	July 16, 2014	480045
Brazos	City of Bryan (13–06–2606P).	The Honorable Jason Bienski, Mayor, City of Bryan, 300 South Texas Avenue, Bryan, TX 77803.	City Hall, 300 South Texas Avenue, Bryan, TX 77803.	*http://www.msc.fema.gov/lomc*	July 7, 2014	480082

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Effective date of modification	Community No.
Collin	City of McKinney (13–06–3699P).	The Honorable Brian Loughmiller, Mayor, City of McKinney, P.O. Box 517, McKinney, TX 75070.	City Hall, 222 North Tennessee Street, McKinney, TX 75069.	*http://www.msc.fema.gov/lomc*	June 30, 2014	480135
Dallas	City of Dallas (13–06–2620P).	The Honorable Mike Rawlings, Mayor, City of Dallas, 1500 Marilla Street, Room 5EN, Dallas, TX 75201.	Public Works Department, 320 East Jefferson Boulevard, Room 307, Dallas, TX 75203.	*http://www.msc.fema.gov/lomc*	July 28, 2014	480171
Denton	City of Denton (13–06–3803P).	The Honorable Mark A. Burroughs, Mayor, City of Denton, 215 East McKinney Street, Denton, TX 76201.	City Hall, 601 East Hickory Street, Denton, TX 76205.	*http://www.msc.fema.gov/lomc*	July 28, 2014	480194
Denton	Unincorporated areas of Denton County (13–06–3803P).	The Honorable Mary Horn, Denton County Judge, 110 West Hickory Street, 2nd Floor, Denton, TX 76201.	Denton County Planning Department, 1505 East McKinney Street, Suite 175, Denton, TX 76209.	*http://www.msc.fema.gov/lomc*	July 28, 2014	480774
Harris	City of Houston (13–06–4399P).	The Honorable Annise Parker, Mayor, City of Houston, P.O. Box 1562, Houston, TX 77251.	Public Works and Engineering Department, 611 Walker Street, Houston, TX 77002.	*http://www.msc.fema.gov/lomc*	June 26, 2014	480296
Harris	Unincorporated areas of Harris County (13–06–4399P).	The Honorable Ed M. Emmett, Harris County Judge, 1001 Preston Street, Suite 911, Houston, TX 77002.	Harris County, 10555 Northwest Freeway, Houston, TX 77092.	*http://www.msc.fema.gov/lomc*	June 26, 2014	480287
Harris	Unincorporated areas of Harris County (14–06–0260P).	The Honorable Ed M. Emmett, Harris County Judge, 1001 Preston Street, Suite 911, Houston, TX 77002.	Harris County, 10555 Northwest Freeway, Houston, TX 77092.	*http://www.msc.fema.gov/lomc*	July 7, 2014	480287
Hays	City of Kyle (13–06–3638P).	The Honorable Lucy Johnson, Mayor, City of Kyle, 191 Cleveland, Kyle, TX 78640.	Building Department, 100 West Center Street, Kyle, TX 78640.	*http://www.msc.fema.gov/lomc*	July 10, 2014	481108
Tarrant	City of Forest Hill (14–06–0893X).	The Honorable Gerald Joubert, Mayor, City of Forest Hill, 3219 California Parkway, Forest Hill, TX 76119.	City Hall, 3219 California Parkway, Forest Hill, TX 76119.	*http://www.msc.fema.gov/lomc*	May 29, 2014	480595
Tarrant	City of Fort Worth (13–06–3009P).	The Honorable Betsy Price, Mayor, City of Fort Worth, 1000 Throckmorton Street, Fort Worth, TX 76102.	Department of Transportation and Public Works, 1000 Throckmorton Street, Fort Worth, TX 76102.	*http://www.msc.fema.gov/lomc*	May 29, 2014	480596
Tarrant	City of Mansfield (13–06–2771P).	The Honorable David L. Cook, Mayor, City of Mansfield, 1200 East Broad Street, Mansfield, TX 76063.	City Hall, 1200 East Broad Street, Mansfield, TX 76063.	*http://www.msc.fema.gov/lomc*	May 16, 2014	480606
Virginia: Spotsylvania.	Unincorporated areas of Spotsylvania County (13–03–1116P).	Mr. C. Douglas Barnes, Spotsylvania County Administrator, 9104 Courthouse Road, Spotsylvania, VA 22553.	Spotsylvania County Environmental Engineering Office, 9019 Old Battlefield Boulevard, Suite 300, Spotsylvania, VA 22553.	*http://www.msc.fema.gov/lomc*	June 5, 2014	510308
West Virginia:						
Cabell	Unincorporated areas of Cabell County (13–03–0925P).	The Honorable Nancy Cartmill, President, Cabell County Commission, 750 5th Avenue, Suite 300, Huntington, WV 25701.	Cabell County Office of Grants, Planning and Permits, 750 5th Avenue, Suite 314, Huntington, WV 25701.	*http://www.msc.fema.gov/lomc*	June 26, 2014	540016
Cabell	Village of Barboursville (13–03–0925P).	The Honorable Paul Turman, Mayor, Village of Barboursville, 721 Central Avenue, Barboursville, WV 25504.	Village Hall, 721 Central Avenue, Barboursville, WV 25504.	*http://www.msc.fema.gov/lomc*	June 26, 2014	540017
Raleigh	Unincorporated areas of Raleigh County (13–03–2399P).	The Honorable David L. Tolliver, President, Raleigh County Commission, 116 1/2 North Heber Street, Beckley, WV 25801.	Raleigh County Commission, 116 1/2 North Heber Street, Beckley, WV 25801.	*http://www.msc.fema.gov/lomc*	July 14, 2014	540169

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: April 22, 2014.

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2014–11007 Filed 5–12–14; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2014–0002; Internal Agency Docket No. FEMA–B–1412]

Proposed Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report, once effective, will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings.

DATES: Comments are to be submitted on or before August 11, 2014.

ADDRESSES: The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

You may submit comments, identified by Docket No. FEMA–B–1412, to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings built after the FIRM and FIS report become effective.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at *http://floodsrp.org/pdfs/srp_fact_sheet.pdf.*

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location and the respective Community Map Repository address listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

Community	Community map repository address
Beaver County, Pennsylvania (All Jurisdictions)	
Maps Available for Inspection Online at: *http://www.fema.gov/preliminaryfloodhazarddata*	
Borough of Ambridge	Borough Hall, 600 11th Street, Ambridge, PA 15003.
Borough of Baden	Borough Hall, 149 State Street, Baden, PA 15005.
Borough of Beaver	Borough Municipal Building, 469 Third Street, Beaver, PA 15009.
Borough of Big Beaver	Big Beaver Borough Municipal Building, 114 Forest Drive, Darlington, PA 16115.
Borough of Bridgewater	Bridgewater Borough Municipal Building, 199 Boundary Lane, Beaver, PA 15009.
Borough of Conway	Borough Hall, 1208 Third Avenue, Conway, PA 15027.
Borough of Darlington	Borough Hall, 604 Morris Street, Darlington, PA 16115.
Borough of East Rochester	Borough Hall, 760 Spruce Avenue, East Rochester, PA 15074.

Community	Community map repository address
Borough of Eastvale	Eastvale Borough Office, 510 Second Avenue, Eastvale, Beaver Falls, PA 15010.
Borough of Economy	Economy Borough Municipal Building, 2856 Conway Wallrose Road, Baden, PA 15005.
Borough of Fallston	Borough Secretary's Office, 158 Beaver Street, Fallston, PA 15066.
Borough of Freedom	Borough Municipal Complex, 901 3rd Avenue, Freedom, PA 15042.
Borough of Georgetown	Office of the Borough Secretary, 323 3rd Street, Georgetown, PA 15043.
Borough of Glasgow	Glasgow Borough Hall, 174 Route 68, Midland, PA 15059.
Borough of Homewood	Homewood Borough Office, 102 Second Avenue, Beaver Falls, PA 15010.
Borough of Hookstown	Borough Building, 262 Main Street, Hookstown, PA 15050.
Borough of Industry	Borough Office, 1620B Midland Beaver Road, Industry, PA 15052.
Borough of Koppel	Borough Office, 3437 3rd Avenue, Koppel, PA 16136.
Borough of Midland	Borough Office, 936 Midland Avenue, Midland, PA 15059.
Borough of Monaca	Borough Office, 928 Pennsylvania Avenue, Monaca, PA 15061.
Borough of New Brighton	Borough Office, 610 3rd Avenue, New Brighton, PA 15066.
Borough of New Galilee	Borough Community Hall, 201 Washington Avenue, New Galilee, PA 16141.
Borough of Ohioville	Ohioville Borough Annex Building, 6268 Tuscarawas Road, Industry, PA 15052.
Borough of Patterson Heights	Patterson Heights Borough Hall, 600 7th Avenue, Beaver Falls, PA 15010.
Borough of Rochester	Borough Municipal Building, 350 Adams Street, Rochester, PA 15074.
Borough of Shippingport	Municipal Building, 164 State Route 3016, Shippingport, PA 15077.
Borough of South Heights	Borough Building, 4069 Jordan Street, South Heights, PA 15081.
Borough of West Mayfield	West Mayfield Borough Building, 4609 West 8th Avenue, Beaver Falls, PA 15010.
City of Aliquippa	City Hall 581, Franklin Avenue, Aliquippa, PA 15001.
City of Beaver Falls	City Hall, 715 15th Street, Beaver Falls, PA 15010.
Township of Brighton	Brighton Township Municipal Building, 1300 Brighton Road, Beaver, PA 15009.
Township of Center	Center Township Municipal Building, 224 Center Grange Road, Aliquippa, PA 15001.
Township of Chippewa	Chippewa Township Municipal Building, 2811 Darlington Road, Beaver Falls, PA 15010.
Township of Darlington	Township Municipal Building, 3590 Darlington Road, Darlington, PA 16115.
Township of Daugherty	Daugherty Township Municipal Building, 2182 Mercer Road, New Brighton, PA 15066.
Township of Franklin	Franklin Township Hall, 897 State Route 288, Fombell, PA 16123.
Township of Greene	Greene Township Hall, 262 Pittsburgh Grade Road, Hookstown, PA 15050.
Township of Hanover	Hanover Township Hall, 2731 State Route 18, Hookstown, PA 15050.
Township of Harmony	Harmony Township Municipal Building, 2501 Woodland Road, Ambridge, PA 15003.
Township of Hopewell	Hopewell Township Municipal Building, 1700 Clark Boulevard, Aliquippa, PA 15001.
Township of Independence	Independence Township Municipal Building, 104 School Road, Aliquippa, PA 15001.
Township of Marion	Marion Township Municipal Building, 485 Hartzell School Road, Fombell, PA 16123.
Township of New Sewickley	New Sewickley Township Municipal Building, 233 Miller Road, Rochester, PA 15074.
Township of North Sewickley	North Sewickley Township Municipal Building, 893 Mercer Road Beaver, Falls, PA 15010.
Township of Patterson	Patterson Township Municipal Complex, 1600 19th Avenue, Beaver Falls, PA 15010.
Township of Potter	Potter Township Municipal Building, 206 Mowry Road, Monaca, PA 15061.
Township of Pulaski	Pulaski Township Municipal Building, 3401 Sunflower Road, New Brighton, PA 15066.
Township of Raccoon	Raccoon Township Municipal Building, 1234 State Route 18, Aliquippa, PA 15001.
Township of Rochester	Municipal Building 1013, Elm Street, Rochester, PA 15074.
Township of South Beaver	South Beaver Township Fire Hall, 773 State Route 168, Darlington, PA 16115.
Township of Vanport	Municipal Building, 477 State Avenue, Vanport, PA 15009.
Township of White	White Township Building, 2511 13th Avenue (Clayton Road), Beaver Falls, PA 15010.

Butler County, Pennsylvania (All Jurisdictions)

Maps Available for Inspection Online at: *http://www.fema.gov/preliminaryfloodhazarddata*

Community	Community map repository address
Borough of Bruin	Borough Hall, 114 Water Street, Bruin, PA 16022.
Borough of Callery	Borough Hall, 199 Railroad Street, Callery, PA 16024.
Borough of Chicora	Borough Office, 209 Central Avenue, Chicora, PA 16025.
Borough of Connoquenessing	Borough Office, 228 Constitution Avenue, Connoquenessing, PA 16027.
Borough of East Butler	Borough Municipal Building, 1105 Randolph Avenue, East Butler, PA 16029.
Borough of Evans City	Borough Building, 204–B South Jackson Street, Evans City, PA 16033.
Borough of Harmony	Borough Building, 217 Mercer Street, Harmony, PA 16037.
Borough of Harrisville	Borough Offices, 117 South Main Street, Harrisville, PA 16038.
Borough of Karns City	Borough Office, 116 Main Street, Karns City, PA 16041.
Borough of Mars	Borough Office, 598 Spring Street, Mars, PA 16046.
Borough of Petrolia	Borough Secretary's Office, 145 Main Street, Petrolia, PA 16050.
Borough of Prospect	Borough Office 159 Monroe Street, Prospect, PA 16052.
Borough of Seven Fields	Borough Municipal Building, 2200 Garden Drive, Suite 100, Seven Fields, PA 16046.
Borough of Valencia	Borough Building, 61 Almira Street, Valencia, PA 16059.
Borough of West Liberty	West Liberty Borough Office, 128 Slippery Rock Road, Slippery Rock, PA 16057.
Borough of Zelienople	Borough Municipal Building, 111 West New Castle Street, Zelienople, PA 16063.
City of Butler	City Building, 140 West North Street, Butler, PA 16001.
Township of Adams	Adams Township Municipal Building, 690 Valencia Road, Mars, PA 16046.
Township of Allegheny	Allegheny Township Municipal Building, 373 Foxburg Road, Parker, PA 16049.
Township of Brady	Brady Township Building, 141 West Liberty Road, Slippery Rock, PA 16057.
Township of Buffalo	Buffalo Township Municipal Office, 109 Bear Creek Road, Sarver, PA 16055.
Township of Butler	Township Municipal Building, 290 South Duffy Road, Butler, PA 16001.
Township of Center	Center Township Municipal Building, 419 Sunset Drive, Butler, PA 16001.
Township of Cherry	Cherry Township Secretary's Office, 1573 West Sunbury Road, #8, West Sunbury, PA 16061.
Township of Clay	Clay Township Municipal Building, 1115 Euclid School Road, Butler, PA 16001.
Township of Clearfield	Clearfield Township Municipal Office, 103 McGrady Road, Fenelton, PA 16034.
Township of Clinton	Clinton Township Municipal Building, 711 Saxonburg Boulevard, Saxonburg, PA 16056.
Township of Concord	Concord Township Municipal Building, 700 Hooker Road, West Sunbury, PA 16061.
Township of Connoquenessing	Connoquenessing Township Office, 102 Township Drive, Renfrew, PA 16053.
Township of Cranberry	Township Municipal Center 2525 Rochester Road, Suite 400, Cranberry Township, PA 16066.
Township of Donegal	Donegal Township Office, 400 Chicora-Fenelton Road, Chicora, PA 16025.
Township of Fairview	Fairview Township Secretary's Office, 1571 Hooker Road, Karns City, PA 16041.
Township of Forward	Forward Township Municipal Building, 207 Ash Stop Road, Evans City, PA 16033.
Township of Franklin	Franklin Township Municipal Buildinig, 191 Election House Road, Prospect, PA 16052.
Township of Jackson	Jackson Township Office, 140 Magill Road, Zelienople, PA 16063.
Township of Jefferson	Jefferson Township Municipal Building, 157 Great Belt Road, Butler, PA 16002.
Township of Lancaster	Lancaster Township Office, 113 Kings Alley, Harmony, PA 16037.
Township of Marion	Marion Township Office, 2275 West Sunbury Road, Suite B, Boyers, PA 16020.
Township of Mercer	Mercer Township Secretary's Office, 1047 Harmony Road, Harrisville, PA 16038.
Township of Middlesex	Middlesex Township Municipal Building, 133 Browns Hill Road, Valencia, PA 16059.
Township of Muddy Creek	Muddy Creek Township Building, 911 Perry Highway, Harmony, PA 16037.
Township of Oakland	Oakland Township Municipal Building, 565 Chicora Road, Butler, PA 16001.
Township of Parker	Parker Township Municipal Building, 107 Snake Road, Bruin, PA 16022.
Township of Penn	Penn Township Municipal Building, 157 East Airport Road, Butler, PA 16002.
Township of Slippery Rock	Township Office, 155 Branchton Road, Slippery Rock, PA 16057.

Community	Community map repository address
Township of Summit	Summit Township Office, 502 Bonniebrook Road, Butler, PA 16002.
Township of Venango	Venango Township Building, 332 Eau Claire Road, Boyers, PA 16020.
Township of Washington	Washington Township Building, 241 Old Brick Road, Hilliards, PA 16040.
Township of Winfield	Winfield Township Office, 194 Brose Road, Cabot, PA 16023.
Township of Worth	Worth Township Building, 815 West Park Road, Slippery Rock, PA 16057.
Brown County, Texas, and Incorporated Areas	
Maps Available for Inspection Online at: *http://www.fema.gov/preliminaryfloodhazarddata*	
City of Bangs	City Hall, 109 South 1st Street, Bangs, TX 76823.
City of Blanket	City Hall, 719 Main Street, Blanket, TX 76432.
City of Brownwood	Engineering Office, 501 Center Avenue, Brownwood, TX 76804.
City of Early	City Hall, 960 Early Boulevard, Early, TX 76802.
Unincorporated Areas of Brown County	Brown County Building Inspector's Office, 200 South Broadway Street, Suite 332, Brownwood, TX 76801.
Augusta County, Virginia, and Incorporated Areas	
Maps Available for Inspection Online at: *http://www.fema.gov/preliminaryfloodhazarddata*	
Unincorporated Areas of Augusta County	Augusta County Community Development Office, 18 Government Center Lane, Verona, VA 24482.
Charles City County, Virginia (All Jurisdictions)	
Maps Available for Inspection Online at: *http://www.fema.gov/preliminaryfloodhazarddata*	
Unincorporated Areas of Charles City County	Charles City County Department of Public Works, 10900 Courthouse Road, Charles City, VA 23030.
New Kent County, Virginia (All Jurisdictions)	
Maps Available for Inspection Online at: *http://www.fema.gov/preliminaryfloodhazarddata*	
Unincorporated Areas of New Kent County	New Kent County Department of Planning and Community Development, 12007 Courthouse Circle, New Kent, VA 23124

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: April 22, 2014.

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2014–11002 Filed 5–12–14; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2014–0002; Internal Agency Docket No. FEMA–B–1410]

Proposed Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report, once effective, will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings.

DATES: Comments are to be submitted on or before August 11, 2014.

ADDRESSES: The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

You may submit comments, identified by Docket No. FEMA–B–1410, to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov*.

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html*.

SUPPLEMENTARY INFORMATION: FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act

of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings built after the FIRM and FIS report become effective.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at *http://floodsrp.org/pdfs/srp_fact_sheet.pdf*.

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location and the respective Community Map Repository address listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

I. Watershed-based studies:

WEST NISHNABOTNA WATERSHED

Community	Community map repository address
Shelby County, Iowa, and Incorporated Areas	
Maps Available for Inspection Online at: *http://www.fema.gov/preliminaryfloodhazarddata*	
City of Defiance	City Hall, 206 Main Avenue, Defiance, IA 51527.
City of Earling	City Clerk Office, 117 Main Street, Earling, IA 51530.
City of Harlan	City Hall, 711 Durant Street, Harlan, IA 51537.
City of Irwin	City Hall, 504 Ann Street, Irwin, IA 51446.
City of Kirkman	Community Hall, 106 State Street, Kirkman, IA 51447.
City of Panama	City Hall, 111 Main Street, Panama, IA 51562.
City of Portsmouth	City Hall, 2nd Avenue and Main Street, Portsmouth, IA 51565.
Unincorporated Areas of Shelby County	Shelby County Engineer Office, 1411 Industrial Parkway, Harlan, IA 51537.

LOWER LITTLE BLUE WATERSHED

Community	Community map repository address
Jefferson County, Nebraska, and Incorporated Areas	
Maps Available for Inspection Online at: *http://www.fema.gov/preliminaryfloodhazarddata*	
City of Fairbury	City Hall, 612 D Street, Fairbury, NE 68352.
Unincorporated Areas of Jefferson County	Planning and Zoning Department, 313 South K Street, Fairbury, NE 68352.
Village of Daykin	Community Center, 201 Mary Avenue, Daykin, NE 68338.
Village of Diller	Community Center, 503 Commercial Street, Diller, NE 68342.
Village of Endicott	Village Hall, 110 North Scribner Street, Endicott, NE 68350.
Village of Harbine	Harbine Village Hall, 315 Barry Street, Jansen, NE 68377.
Village of Jansen	Village Hall, 505 Broad Street, Jansen, NE 68377.
Village of Plymouth	Village Hall, 313 East Main Street, Plymouth, NE 68424.
Village of Reynolds	Village Hall, 121 Commercial Street, Reynolds, NE 68429.
Village of Steele City	Village Hall, 109 North Ida, Steele City, NE 68440.

II. Non-watershed-based studies:

Community	Community map repository address
Kane County, Illinois, and Incorporated Areas	
Maps Available for Inspection Online at: *http://www.fema.gov/preliminaryfloodhazarddata*	
Unincorporated Areas of Kane County	Kane County Government Center, Building A, Water Resources Department, 719 Batavia Avenue, Geneva, IL 60134.
Village of Burlington	Village Hall, 175 Water Street, Burlington, IL 60109.

Community	Community map repository address
Village of Hampshire	Village Hall, 234 South State Street, Hampshire, IL 60140.
Van Buren, Iowa, and Incorporated Areas	
Maps Available for Inspection Online at: *http://www.fema.gov/preliminaryfloodhazarddata*	
City of Keosauqua	City Hall, 804 1st Street, Keosauqua, IA 52565.
Van Buren County	Van Buren County Courthouse, 406 Dodge Street, Keosauqua, IA 52565.
Leavenworth, Kansas, and Incorporated Areas	
Maps Available for Inspection Online at: *http://www.fema.gov/preliminaryfloodhazarddata*	
City of Basehor	City Hall, 2620 North 155th Street, Basehor, KS 66007.
City of Easton	City Hall, 300 West Riley Street, Easton, KS 66020.
City of Lansing	City Hall Annex, 730 First Terrace, Suite 3, Lansing, KS 66043.
City of Leavenworth	City Hall, 100 North 5th Street, Leavenworth, KS 66048.
City of Linwood	City Hall, 306 Main Street, Linwood, KS 66052.
City of Tonganoxie	City Hall, 321 South Delaware Street, Tonganoxie, KS 66086.
Unincorporated Areas of Leavenworth County	County Courthouse, 300 Walnut Street, Leavenworth, KS 66048.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: April 22, 2104.

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2014–11006 Filed 5–12–14; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2014–0002; Internal Agency Docket No. FEMA–B–1413]

Proposed Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report, once effective, will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings.

DATES: Comments are to be submitted on or before August 11, 2014.

ADDRESSES: The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

You may submit comments, identified by Docket No. FEMA–B–1413, to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings built after the FIRM and FIS report become effective.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation

process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at *http://floodsrp.org/pdfs/srp_fact_sheet.pdf.*

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location and the respective Community Map Repository address listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

Community	Community Map Repository Address
Cochise County, Arizona, and Incorporated Areas	
Maps Available for Inspection Online at: *http://www.fema.gov/preliminaryfloodhazarddata*	
City of Benson	Planning & Zoning, 120 West 6th Street, Benson, AZ 85602.
Unincorporated Areas of Cochise County	Cochise County Flood Control District, 1415 Melody Lane, Building F, Bisbee, AZ 85603.
Marin County, California, and Incorporated Areas	
Maps Available for Inspection Online at: *http://www.fema.gov/preliminaryfloodhazarddata*	
City of Belvedere	Building Department, 450 San Rafael Avenue, Belvedere, CA 94920.
City of Larkspur	Planning Department, 400 Magnolia Avenue, Larkspur, CA 94939.
City of Mill Valley	Public Works Department, 26 Corte Madera Avenue, Mill Valley, CA 94941.
City of Novato	Public Works Department, 922 Machin Avenue, Novato, CA 94945.
City of San Rafael	Public Works Department, 111 Morphew Street, San Rafael, CA 94901.
City of Sausalito	Planning Department, 420 Litho Street, Sausalito, CA 94965.
Town of Corte Madera	Engineering Department, 233 Tamalpais Drive, Corte Madera, CA 94976.
Town of Ross	Public Works Department, 31 Sir Francis Drake Boulevard, Ross, CA 94957.
Town of San Anselmo	Public Works Department, 525 San Anselmo Avenue, San Anselmo, CA 94960.
Town of Tiburon	Planning Department, 1505 Tiburon Boulevard, Tiburon, CA 94920.
Unincorporated Areas of Marin County	Department of Public Works, 3501 Civic Center Drive, Room 304, San Rafael, CA 94903.
Plumas County, California, and Incorporated Areas	
Maps Available for Inspection Online at: *http://www.fema.gov/preliminaryfloodhazarddata*	
Unincorporated Areas of Plumas County	Plumas County Courthouse, 520 Main Street, Quincy, CA 95971.
San Mateo County, California, and Incorporated Areas	
Maps Available for Inspection Online at: *http://www.fema.gov/preliminaryfloodhazarddata*	
City of Belmont	City Hall, One Twin Pines Lane, Belmont, CA 94002.
City of Foster City	City Hall, 610 Foster City Boulevard, Foster City, CA 94404.
City of Redwood City	City Hall, 1017 Middlefield Road, Redwood City, CA 94063.
City of San Mateo	City Hall, 330 West 20th Avenue, San Mateo, CA 94403.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: April 22, 2104.

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2014–11008 Filed 5–12–14; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2013–0002; Internal Agency Docket No. FEMA–B–1299]

Proposed Flood Hazard Determinations for Mercer County, North Dakota and Incorporated Areas

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Proposed Notice; withdrawal.

SUMMARY: The Federal Emergency Management Agency (FEMA) is withdrawing its proposed notice concerning proposed flood hazard determinations, which may include the addition or modification of any Base Flood Elevation, base flood depth, Special Flood Hazard Area boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps, and where applicable, in the supporting Flood Insurance Study reports for Mercer County, North Dakota and Incorporated Areas.

DATES: This withdrawal is effective May 13, 2014.

ADDRESSES: You may submit comments, identified by Docket No. FEMA–B–1299, to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov.*

SUPPLEMENTARY INFORMATION: On March 6, 2013, FEMA published a proposed notice at 78 FR 14578, proposing flood hazard determinations in Mercer County, North Dakota. FEMA is withdrawing the proposed notice.

Authority: 42 U.S.C. 4104; 44 CFR 67.4.

Dated: April 25, 2014.

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2014–11078 Filed 5–12–14; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0035]

Agency Information Collection Activities: Application To Adjust Status From Temporary to Permanent Resident, Form I–698; Revision of a Currently Approved Collection; Extension, Without Change, of a Currently Approved Collection

ACTION: 60-Day Notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) invites the general public and other Federal agencies to comment upon this proposed revision of a currently approved collection of information or new collection of information. In accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (i.e. the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

DATES: Comments are encouraged and will be accepted for 60 days until July 14, 2014.

ADDRESSES: All submissions received must include the OMB Control Number 1615–0035 in the subject box, the agency name and Docket ID USCIS–2008–0019. To avoid duplicate submissions, please use only one of the following methods to submit comments:

(1) *Online.* Submit comments via the Federal eRulemaking Portal Web site at *www.regulations.gov* under e-Docket ID number USCIS–2008–0019;

(2) *Email.* Submit comments to *USCISFRComment@uscis.dhs.gov;*

(3) *Mail.* Submit written comments to DHS, USCIS, Office of Policy and Strategy, Chief, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529–2140.

SUPPLEMENTARY INFORMATION:

Comments

Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

Note: The address listed in this notice should only be used to submit comments concerning this information collection. Please do not submit requests for individual case status inquiries to this address. If you are seeking information about the status of your individual case, please check ''My Case Status'' online at: *https://egov.uscis.gov/cris/Dashboard.do,* or call the USCIS National Customer Service Center at 1–800–375–5283.

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Application to Adjust Status from Temporary to Permanent Resident.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* Form I–698; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals and Households. The data collected on Form I–698 is used by USCIS to determine the eligibility to adjust an applicant's residence status.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 211 responses at 1 hour and 15 minutes (1.25 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 263 annual burden hours.

If you need a copy of the information collection instrument with instructions, or additional information, please visit the Federal eRulemaking Portal site at: *http://www.regulations.gov.* We may also be contacted at: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529–2140, Telephone number 202–272–8377.

Dated: May 7, 2014.

Laura Dawkins,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2014–10920 Filed 5–12–14; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Colorado River Basin Salinity Control Advisory Council

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of public meeting.

SUMMARY: The Colorado River Basin Salinity Control Advisory Council (Council) was established by the

Colorado River Basin Salinity Control Act of 1974 (Pub. L. 93–320) (Act) to receive reports and advise Federal agencies on implementing the Act. In accordance with the Federal Advisory Committee Act, the Bureau of Reclamation announces that the Council will meet as detailed below. The meeting of the Council is open to the public.

DATES: The Council will convene the meeting on Thursday, June 12, 2014, at 1:00 p.m. and recess at approximately 5:00 p.m. The Council will reconvene the meeting on Friday, June 13, 2014, at 8:30 a.m. and adjourn the meeting at approximately 11:30 a.m.

ADDRESSES: The meeting will be held at the Jackson Lake Lodge, 101 Jackson Lake Lodge Road, Moran, Wyoming 83013. Send written comments to Mr. Kib Jacobson, Bureau of Reclamation, Upper Colorado Regional Office, 125 South State Street, Room 6107, Salt Lake City, Utah 84138–1147; telephone (801) 524–3753; facsimile (801) 524–3826; email at: *kjacobson@usbr.gov*.

FOR FURTHER INFORMATION CONTACT: Kib Jacobson, telephone (801) 524–3753; facsimile (801) 524–3826; email at: *kjacobson@usbr.gov*.

SUPPLEMENTARY INFORMATION: Any member of the public may file written statements with the Council before, during, or up to 30 days after the meeting either in person or by mail. To the extent that time permits, the Council chairman will allow public presentation of oral comments at the meeting. To allow full consideration of information by Council members, written notice must be provided at least 5 days prior to the meeting. Any written comments received prior to the meeting will be provided to Council members at the meeting.

The purpose of the meeting will be to discuss and take appropriate actions regarding the following: (1) The Basin States Program created by Public Law 110–246, which amended the Act; (2) responses to the Advisory Council Report; and (3) other items within the jurisdiction of the Council.

Public Disclosure

Before including your address, phone number, email address, or other personal identifying information in any communication, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your communication to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: March 26, 2014.

Larry Walkoviak,

Regional Director, Upper Colorado Region.

[FR Doc. 2014–10796 Filed 5–12–14; 8:45 am]

BILLING CODE 4310–MN–P

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Toner Cartridges and Components Thereof, DN 3012;* the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing under section 210.8(b) of the Commission's Rules of Practice and Procedure (19 CFR 210.8(b)).

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Acting Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at *EDIS,*[1] and will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000.

General information concerning the Commission may also be obtained by accessing its Internet server at United States International Trade Commission (USITC) at *USITC.*[2] The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at *EDIS.*[3] Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint and a submission pursuant to section 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of Canon Inc., Canon U.S.A., Inc. and Canon Virginia, Inc. on May 7, 2014. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain toner cartridges and components thereof. The complaint name as respondents Ninestar Image Tech Limited of China; Zhuhai Seine Technology Co., Ltd. of China; Ninestar Technology Company, Ltd. of City of Industry, CA; Seine Tech (USA) Co., Ltd. of Walnut, CA; Seine Image Int'l Co., Ltd. of Hong Kong; Ninestar Image Tech, Ltd. of Hong Kong; Seine Image (USA) Co., Ltd. of Diamond Bar, CA; Nano Pacific Corporation of South San Francisco, CA; Aster Graphics, Inc. of Placentia, CA; Jiangxi Yibo E-tech Co., Ltd. of China; Aster Graphics Co., Ltd. of China; Print-Rite Holdings Ltd. of Hong Kong; Print-Rite N.A., Inc. of La Vergne, TN; Union Technology Int'l (M.C.O.) Co. Ltd. of China; Print-Rite Unicorn Image Products Co. Ltd. of China; Innotex Precision Ltd. of Hong Kong; International Laser Group, Inc. of Woodland Hills, CA; Shenzhen ASTA Official Consumable Co., Ltd. of China; Acecom, Inc.—San Antonio d/b/a InkSell.com of San Antonio, TX; ACM Technologies, Inc. of Corona, CA; American Internet Holdings, LLC of Midland Park, NJ; The Supplies Guys, LLC of Midland Park, NJ; Do It Wiser LLC d/b/a Image Toner of Marietta, GA; Grand Image Inc. d/b/a Grand Image USA d/b/a INK4S.com of City of Industry, CA; Green Project, Inc. of Hacienda Heights, CA; Ink Technologies Printer Supplies, LLC of Dayton, OH; Katun Corporation of Bloomington, MN; LD Products, Inc. of Long Beach, CA; Linkyo Corp. of La Puente, CA; Nectron International, Inc. of Sugar Land, TX; Online Tech Stores, LLC d/b/a SuppliesOutlet.com d/b/a Supplies Wholesalers.com d/b/a Online TechStores.com of Reno, NV; Printronic Corporation d/b/a Printronic.com d/b/a InkSmile.com of Santa Ana, CA and Zinyaw LLC d/b/a TonerPirate.com of Houston, TX. The complainant requests that the Commission issue a general exclusion order or, alternatively, a limited exclusion order, and a cease and desist order.

Proposed respondents, other interested parties, and members of the public are invited to file comments, not to exceed five (5) pages in length, inclusive of attachments, on any public interest issues raised by the complaint or section 210.8(b) filing. Comments should address whether issuance of the

[1] Electronic Document Information System (EDIS): *http://edis.usitc.gov.*

[2] United States International Trade Commission (USITC): *http://edis.usitc.gov.*

[3] Electronic Document Information System (EDIS): *http://edis.usitc.gov.*

relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the docket number (''Docket No. 3012'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, Electronic Filing Procedures).[4] 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 nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on *EDIS*.[5]

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of sections 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Issued: May 7, 2014.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2014–10901 Filed 5–12–14; 8:45 am]

BILLING CODE 7020–02–P

[4] Handbook for Electronic Filing Procedures: *http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf.*

[5] Electronic Document Information System (EDIS): *http://edis.usitc.gov.*

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2014–0012]

Whistleblower Protection Advisory Committee (WPAC)

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Announcement of WPAC charter renewal.

SUMMARY: In accordance with the provisions of the Federal Advisory Committee Act (FACA), as amended (5 U.S.C., App. 2), and after consultation with the General Services Administration, the Secretary of Labor is renewing the charter for the Whistleblower Protection Advisory Committee. The Committee will better enable OSHA to perform its duties under the Occupational Safety and Health Act (the OSH Act) of 1970 (29 U.S.C. 655, 656). Authority to establish this Committee is at Section 11(c) of the Occupational Safety and Health Act, 29 U.S.C. 660(c); the Surface Transportation Assistance Act, 49 U.S.C. 31105; the Asbestos Hazard Emergency Response Act, 15 U.S.C. 2651; the International Safe Container Act, 46 U.S.C. 80507; the Safe Drinking Water Act, 42 U.S.C. 300j–9(i); the Federal Water Pollution Control Act, 33 U.S.C. 1367; the Toxic Substances Control Act, 15 U.S.C. 2622; the Solid Waste Disposal Act, 42 U.S.C. 6971; the Clean Air Act, 42 U.S.C. 7622; the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9610; the Energy Reorganization Act, 42 U.S.C. 5851; the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century, 49 U.S.C. 42121; the Sarbanes-Oxley Act, 18 U.S.C. 1514A; the Pipeline Safety Improvement Act, 49 U.S.C. 60129; the Federal Railroad Safety Act, 49 U.S.C. 20109; the National Transit Systems Security Act, 6 U.S.C. 1142; the Consumer Product Safety Improvement Act, 15 U.S.C. 2087; the Affordable Care Act, 29 U.S.C. 218C; the Consumer Financial Protection Act, 12 U.S.C. 5567; the Seaman's Protection Act, 46 U.S.C. 2114; the FDA Food Safety Modernization Act, 21 U.S.C. 399d; and the Moving Ahead for Progress in the 21st Century Act, 49 U.S.C. 30171. The Committee is diverse and balanced, both in terms of categories of stakeholders (e.g., subject matter experts, labor, management, and state plans), and in the views and interests represented by the members.

FOR FURTHER INFORMATION CONTACT: Meghan Smith, OSHA, Directorate of Whistleblower Protection Programs, Room N–4624, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693–2199; email *smith.meghan.p@dol.gov*.

SUPPLEMENTARY INFORMATION: The Committee will advise OSHA on ways to improve the fairness, efficiency, and transparency of OSHA's whistleblower investigations. This includes advice on improving the investigative and enforcement processes, the training of OSHA investigators, improving the regulations governing OSHA investigations, and cooperative activities with federal agencies responsible for areas also covered by the whistleblower protection statutes enforced by OSHA. The Committee will function solely as an advisory body in compliance with the provisions of FACA and OSHA's regulations covering advisory committees (29 CFR part 1912).

Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, authorized the preparation of this notice under the authority granted by the Federal Advisory Committee Act (FACA), as amended (5 U.S.C. App. 2), its implementing regulations (41 CFR part 102–3), chapter 1600 of Department of Labor Management Series 3 (Mar. 17, 2008), Secretary of Labor's Order 1–2012 (Jan. 18, 2012), 77 FR 3912 (Jan.

25, 2012), and the Secretary of Labor's authority to administer the whistleblower provisions found in Section 11(c) of the Occupational Safety and Health Act, 29 U.S.C. 660(c); the Surface Transportation Assistance Act, 49 U.S.C. 31105; the Asbestos Hazard Emergency Response Act, 15 U.S.C. 2651; the International Safe Container Act, 46 U.S.C. 80507; the Safe Drinking Water Act, 42 U.S.C. 300j–9(i); the Federal Water Pollution Control Act, 33 U.S.C. 1367; the Toxic Substances Control Act, 15 U.S.C. 2622; the Solid Waste Disposal Act, 42 U.S.C. 6971; the Clean Air Act, 42 U.S.C. 7622; the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9610; the Energy Reorganization Act, 42 U.S.C. 5851; the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century, 49 U.S.C. 42121; the Sarbanes-Oxley Act, 18 U.S.C. 1514A; the Pipeline Safety Improvement Act, 49 U.S.C. 60129; the Federal Railroad Safety Act, 49 U.S.C. 20109; the National Transit Systems Security Act, 6 U.S.C. 1142; the Consumer Product Safety Improvement Act, 15 U.S.C. 2087; the Affordable Care Act, 29 U.S.C. 218C; the Consumer Financial Protection Act, 12 U.S.C. 5567; the Seaman's Protection Act, 46 U.S.C. 2114; the FDA Food Safety Modernization Act, 21 U.S.C. 399d; and the Moving Ahead for Progress in the 21st Century Act, 49 U.S.C. 42121.

Signed at Washington, DC, on May 6, 2014.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2014–10921 Filed 5–12–14; 8:45 am]

BILLING CODE 4510–26–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA–2014–027]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice.

SUMMARY: NARA is giving public notice that the agency has submitted to OMB for approval the information collections described in this notice. The public is invited to comment on the proposed information collections pursuant to the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted to OMB at the address below by COB June 12, 2014 to be assured of consideration.

ADDRESSES: Send comments to Mr. Nicholas A. Fraser, Desk Officer for NARA, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5167; or electronically mailed to *Nicholas_A._Fraser@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information collections and supporting statements should be directed to Tamee Fechhelm at telephone number 301–713–1694 or fax number 301–713–7409.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13), NARA invites the general public and other Federal agencies to comment on proposed information collections. NARA published a notice of proposed collection for these information collections on February 27, 2014 (79 FR 11142 and 11143). No comments were received. NARA has now submitted the described information collections to OMB for approval. In response to this notice, comments and suggestions should address one or more of the following points: (a) Whether the proposed information collections are necessary for the proper performance of the functions of NARA; (b) the accuracy of NARA's estimate of the burden of the proposed information collections; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of information technology; and (e) whether small businesses are affected by these collections. In this notice, NARA is soliciting comments concerning the following information collections:

1. *Title:* Application and Permit for Use of Space in Presidential Library and Grounds.

OMB number: 3095–0024.

Agency form number: NA Form 16011.

Type of review: Regular.

Affected public: Private organizations.

Estimated number of respondents: 1,000.

Estimated time per response: 20 minutes.

Frequency of response: On occasion.

Estimated total annual burden hours: 333 hours.

Abstract: The information collection is prescribed by 36 CFR 1280.94. The application is submitted to a Presidential library to request the use of space in the library for a privately-sponsored activity. NARA uses the information to determine whether use will meet the criteria in 36 CFR 1280.94 and to schedule the date.

2. *Title:* National Archives Public Vaults Survey.

OMB number: 3095–0062 (reinstatement of previously approved information collection).

Agency form number: N/A.

Type of review: Regular.

Affected public: Individuals who visit the Public Vaults in Washington, DC.

Estimated number of respondents: 1,050.

Estimated time per response: 10 minutes.

Frequency of response: On occasion (when an individual visits the public vaults in Washington, DC).

Estimated total annual burden hours: 175 hours.

Abstract: The information collection is prescribed by EO 12862 issued September 11, 1993, which requires Federal agencies to survey their customers concerning customer service. The general purpose of this voluntary data collection is to measure customer satisfaction with the public vaults and identify additional opportunities for improving customers' experience.

Dated: May 2, 2014.

Swarnali Haldar,

Acting Executive for Information Services/CIO.

[FR Doc. 2014–10869 Filed 5–12–14; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA–2014–028]

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. They authorize the preservation of records of continuing value in the National Archives of the United States and the destruction, after a specified period, of records lacking administrative, legal, research, or other value. Notice is published for records schedules in which agencies propose to destroy records not previously authorized for

disposal or reduce the retention period of records already authorized for disposal. NARA invites public comments on such records schedules, as required by 44 U.S.C. 3303a(a).

DATES: Requests for copies must be received in writing on or before June 12, 2014. Once the appraisal of the records is completed, NARA will send a copy of the schedule. NARA staff usually prepare appraisal memorandums that contain additional information concerning the records covered by a proposed schedule. These, too, may be requested and will be provided once the appraisal is completed. Requesters will be given 30 days to submit comments.

ADDRESSES: You may request a copy of any records schedule identified in this notice by contacting Records Management Services (ACNR) using one of the following means:

Mail: NARA (ACNR), 8601 Adelphi Road, College Park, MD 20740–6001.

Email: *request.schedule@nara.gov.*

FAX: 301–837–3698.

Requesters must cite the control number, which appears in parentheses after the name of the agency which submitted the schedule, and must provide a mailing address. Those who desire appraisal reports should so indicate in their request.

FOR FURTHER INFORMATION CONTACT: Margaret Hawkins, Director, Records Management Services (ACNR), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. Telephone: 301–837–1799. Email: *request.schedule@nara.gov*.

SUPPLEMENTARY INFORMATION: Each year Federal agencies create billions of records on paper, film, magnetic tape, and other media. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA's approval. These schedules provide for the timely transfer into the National Archives of historically valuable records and authorize the disposal of all other records after the agency no longer needs them to conduct its business. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

The schedules listed in this notice are media neutral unless specified otherwise. An item in a schedule is media neutral when the disposition instructions may be applied to records regardless of the medium in which the records are created and maintained. Items included in schedules submitted to NARA on or after December 17, 2007, are media neutral unless the item is limited to a specific medium. (See 36 CFR 1225.12(e).)

No Federal records are authorized for destruction without the approval of the Archivist of the United States. This approval is granted only after a thorough consideration of their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and whether or not they have historical or other value.

Besides identifying the Federal agencies and any subdivisions requesting disposition authority, this public notice lists the organizational unit(s) accumulating the records or indicates agency-wide applicability in the case of schedules that cover records that may be accumulated throughout an agency. This notice provides the control number assigned to each schedule, the total number of schedule items, and the number of temporary items (the records proposed for destruction). It also includes a brief description of the temporary records. The records schedule itself contains a full description of the records at the file unit level as well as their disposition. If NARA staff has prepared an appraisal memorandum for the schedule, it too includes information about the records. Further information about the disposition process is available on request.

Schedules Pending

1. Department of Commerce, Economic Development Administration (DAA–0378–2014–0013, 13 items, 13 temporary items). Comprehensive grant project files created and maintained by regional offices. Information includes grant award files for public works projects, applications for economic assistance, financial reports, general correspondence, economic development files, economic development planning and feasibility studies, and routine administrative records.

2. Department of Homeland Security, U.S. Citizenship and Immigration Services (DAA–0566–2014–0003, 1 item, 1 temporary item). Cuban visa lottery participant biographical data.

3. Department of the Interior, Agency-wide (DAA–0048–2013–0001, 15 items, 15 temporary items). Administrative records that pertain to routine business functions such as operations, human resources management, financial and acquisition management, and information technology. This schedule does not pertain to Indian Fiduciary Trust records.

4. Department of Justice, Bureau of Alcohol, Tobacco, Firearms, and Explosives (DAA–0436–2012–0007, 2 items, 2 temporary items). Personnel security records including nondisclosure agreements and copies of closed case files.

5. Department of Justice, Drug Enforcement Administration (DAA–0170–2013–0004, 2 items, 2 temporary items). Investigative case files.

6. Department of Justice, Drug Enforcement Administration (DAA–0170–2014–0001, 1 item, 1 temporary item). Background intelligence materials of investigative case files.

7. Department of Justice, United States Marshals Service (DAA–0527–2013–0014, 2 items, 2 temporary items). Final audit reports and working papers of the Office of Compliance Review.

8. Department of State, Bureau of Diplomatic Security (N1–59–11–11, 21 items, 21 temporary items). Records of the Office of Protection including routine administrative files. Records also include planning and summary reports for trips and events.

9. Department of Transportation, Federal Transit Administration (N1–408–11–25, 2 items, 2 temporary items). Property disposal records.

10. Department of Veterans Affairs, Veterans Health Administration (N1–15–02–5, 42 items, 42 temporary items). Records of the Nuclear Medicine Service including reports, inspection surveys, safety and compliance documents, directives, training records, and records documenting the use and disposal of radioactive materials.

11. Department of Veterans Affairs, Veterans Health Administration (DAA–0015–2014–0001, 7 items, 6 temporary items). Records of inquiries or investigations into research misconduct, including working papers and duplicates maintained in regional offices. Proposed for permanent retention are records of significant investigations and investigations resulting in researcher debarment.

12. Department of Veterans Affairs, Veterans Health Administration (DAA–0015–2014–0002, 1 item, 1 temporary item). Master files of an electronic information system containing records relating to patient care activities, potential risks, and corrective actions.

13. Administrative Office of the United States Courts, United States District Courts (DAA–0021–2014–0001, 4 items, 4 temporary items). Human resources management records including performance evaluations and awards and bonuses files.

14. Environmental Protection Agency, Agency-wide (DAA–0412–2013–0005, 3 items, 2 temporary items). Records relating to the development, tracking, and amendment of legislative proposals through Congress, as well as other activities supporting the relationship between the agency and Congress. Proposed for permanent retention are historically significant legislative relations records, including legislative history files and reports to Congress and the President.

15. Nuclear Regulatory Commission, Office of Federal and State Materials and Environmental Management Programs (N1–431–08–4, 7 items, 5 temporary items). Records relating to decommissioning nuclear sites. Proposed for permanent retention are master files of an electronic information system relating to terminated licenses and decommissioning of nuclear sites, and related annual publications.

16. Office of Personnel Management, Employee Services (DAA–0478–2014–0002, 1 item, 1 temporary item). Master files of an electronic information system containing biographic information on individuals participating in the Federal coaching network.

17. Office of Personnel Management, Human Resources Solutions (DAA–0478–2012–0010, 1 item, 1 temporary item). Master files of an electronic information system containing customized job vacancy announcements.

Dated: May 7, 2014.

Paul M. Wester, Jr.,

Chief Records Officer for the U.S. Government.

[FR Doc. 2014–10927 Filed 5–12–14; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL SCIENCE FOUNDATION

Proposal Review Panel for Physics; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: NSF Site Visit Review of the National Superconducting Cyclotron Laboratory, #1208

Date and Time: June 16, 2013—8:00 a.m. to 6:00 p.m., June 17, 2013—8:00 a.m. to 1:00 p.m.

Place: Michigan State University; East Lansing, MI.

Type of Meeting: Part-Open.

Contact Person: Dr. Gail Dodge, Program Director for Nuclear Physics; National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 292–8958.

Purpose of Meeting: Annual Site Visit as per the terms of the Laboratory's Five-year Cooperative Agreement.

Agenda

June 16, 2014

8:00 a.m.–10:15 a.m. Closed—Executive Session, Laboratory, Operations, Upgrades and Commissioning Overview
10:15 a.m.—11:15 a.m. Open—Accelerator Physics Research, and Research, Education and Mentoring Overview
11:15 a.m.—11:45 a.m. Closed—Executive Session
12:00 p.m.—12:45 p.m. Open—Meet with President and Provost
12:45 p.m.—1:00 p.m. Closed—Executive Session
1:00 p.m.—3:00 p.m. Open—ReA3, Astrophysics, GRETINA, MoNA Decay Studies, BECOLA, and LEBIT
3:00 p.m.—3:40 p.m. Open—Meet with Students and Postdocs
3:40 p.m.—5:00 p.m. Open—Tour
5:00 p.m.—6:15 p.m. Closed—Executive Session

June 17, 2013

8:30 a.m.—1:00 p.m. Closed—Executive Session and Report Writing

Reason for Closing: The work being reviewed includes information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: May 8, 2014.

Suzanne Plimpton,

Acting, Committee Management Officer.

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NUCLEAR REGULATORY COMMISSION

[NRC–2014–0108]

Biweekly Notice; Applications and Amendments to Facility Operating Licenses and Combined Licenses Involving No Significant Hazards Considerations

AGENCY: Nuclear Regulatory Commission.

ACTION: Biweekly notice.

SUMMARY: Pursuant to Section 189a. (2) of the Atomic Energy Act of 1954, as amended (the Act), the U.S. Nuclear Regulatory Commission (NRC) is publishing this regular biweekly notice. The Act requires the Commission to publish notice of any amendments issued, or proposed to be issued and grants the Commission the authority to issue and make immediately effective any amendment to an operating license or combined license, as applicable, upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from April 17, 2014 to April 30, 2014. The last biweekly notice was published on April 29, 2014.

DATES: Comments must be filed by June 12, 2014. A request for a hearing must be filed by July 14, 2014.

ADDRESSES: You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0108. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov.*
- *Mail comments to:* Cindy Bladey, Office of Administration, Mail Stop: 3WFN–06–44M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on accessing information and submitting comments, see ''Accessing Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Mable A. Henderson, Office, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–3760, email: *Mable.Henderson@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Accessing Information and Submitting Comments

A. Accessing Information

Please refer to Docket ID NRC–2014–0108 when contacting the NRC about the availability of information regarding this document. You may access publicly-available information related to this document by any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0108.

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may access publicly available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''ADAMS Public Documents'' and then select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* Documents may be viewed in ADAMS by performing a search on the document date and docket number.

• *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2014–0108 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *http://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Combined Licenses and Proposed No Significant Hazards Consideration Determination

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in § 50.92 of Title 10 of the *Code of Federal Regulations* (10 CFR), this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period should circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. Should the Commission make a final No Significant Hazards Consideration Determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

A. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 60 days after the date of publication of this notice, any person(s) whose interest may be affected by this action may file a request for a hearing and a petition to intervene with respect to issuance of the amendment to the subject facility operating license or combined license. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR part 2. Interested person(s) should consult a current copy of 10 CFR 2.309, which is available at the NRC's PDR, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. The NRC's regulations are accessible electronically from the NRC Library on the NRC's Web site at *http://www.nrc.gov/reading-rm/doc-collections/cfr/.* If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address, and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also identify the specific contentions which the requestor/petitioner seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the requestor/petitioner shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the requestor/petitioner intends to rely in proving the contention at the hearing. The requestor/petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the requestor/petitioner intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the requestor/petitioner to relief. A requestor/petitioner who fails to satisfy these requirements with respect to at least one

contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of any amendment.

B. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the Internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least ten 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to request (1) a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/getting-started.html.* System requirements for accessing the E-Submittal server are detailed in the NRC's ''Guidance for Electronic Submission,'' which is available on the agency's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through the Electronic Information Exchange System, users will be required to install a Web browser plug-in from the NRC's Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.*

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the ''Contact Us'' link located on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *http://ehd1.nrc.gov/ehd/,* unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such

information. However, a request to intervene will require including information on local residence in order to demonstrate a proximity assertion of interest in the proceeding. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

Petitions for leave to intervene must be filed no later than 60 days from the date of publication of this notice. Requests for hearing, petitions for leave to intervene, and motions for leave to file new or amended contentions that are filed after the 60-day deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i)–(iii).

For further details with respect to these license amendment applications, see the application for amendment which is available for public inspection in ADAMS and at the NRC's PDR. For additional direction on accessing information related to this document, see the ''Accessing Information and Submitting Comments'' section of this document.

South Carolina Electric and Gas Company, South Carolina Public Service Authority, Docket No. 50–395, Virgil C. Summer Nuclear Station (VCSNS), Unit 1, Fairfield County, South Carolina

Date of amendment request: March 26, 2014. A publicly-available version is in ADAMS Package under Accession No. ML14091A487.

Description of amendment request: The proposed amendment includes a significant revision to the site's Radiation Emergency Plan.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes to the VCSNS emergency plan do not impact the physical function of plant structures, systems, or components (SSC) or the manner in which SSCs perform their design function. The proposed changes neither adversely affect accident initiators or precursors, nor alter design assumptions. The proposed changes do not alter or prevent the ability of SSCs to perform their intended function to mitigate the consequences of an initiating event within assumed acceptance limits. No operating procedures or administrative controls that function to prevent or mitigate accidents are affected by the proposed changes.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes do not involve a physical alteration of the plant (i.e., no new or different type of equipment will be installed or removed) or a change in the method of plant operation. The proposed changes will not introduce failure modes that could result in a new accident, and the change does not alter assumptions made in the safety analysis. The proposed changes to the location of the TSC, activation times of facilities, and aligning ERO structure are not initiators of any accidents.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

Margin of safety is associated with the ability of the fission product barriers (i.e., fuel cladding, reactor coolant system pressure boundary, and containment structure) to limit the level of radiation dose to the public. The proposed changes do not impact operation of the plant or its response to transients or accidents. The changes do not affect the Technical Specifications or the operating license. The proposed changes do not involve a change in the method of plant operation, and no accident analyses will be affected by the proposed changes. Additionally, the proposed changes will not relax any criteria used to establish safety limits and will not relax any safety system settings. The safety analysis acceptance criteria are not affected by these changes. The proposed changes will not result in plant operation in a configuration outside the design basis. The proposed changes do not adversely affect systems that respond to safely shut down the plant and to maintain the plant in a safe shutdown condition. The emergency plan will continue to activate an emergency response commensurate with the extent of degradation of plant safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: J. Hagood Hamilton, Jr., South Carolina Electric & Gas Company, Post Office Box 764, Columbia, SC 29218.

NRC Branch Chief: Robert J. Pascarelli.

Southern Nuclear Operating Company Docket Nos.: 52–025 and 52–026, Vogtle Electric Generating Plant (VEGP) Units 3 and 4, Burke County, Georgia

Date of amendment request: April 18, 2014. A publicly-available version is available in ADAMS under Accession No. ML14108A096.

Description of amendment request: The proposed change would amend Combined License Nos. NPF–91 and NPF–92 for the VEGP, Units 3 and 4 by departing from the plant-specific Design Control Document (DCD) Tier 1 (and corresponding Combined License Appendix C information) and Tier 2 material by making changes to the annex and radwaste building structures and layout by:

(1) Updating the annex building column line designations on affected Tier 1 Figures and Tier 2 Figure 3.7.2–19; and

(2) Revising the radwaste building configuration including the shielding design and radiation monitoring.

Because this proposed change requires a departure from Tier 1 information in the Westinghouse Advanced Passive 1000 DCD, the licensee also requested an exemption from the requirements of the Generic DCD Tier 1 in accordance with 52.63(b)(1).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed annex building changes updating column line designations and the radwaste building change to add three bunkers for storage of moderate and high activity waste, incorporate the Waste Accumulation Room and the Packaged Waste Storage Room, revise shield wall thicknesses, and eliminate a radiation monitor no longer needed do not alter the assumed initiators to any analyzed event. These proposed changes do not affect the operation of any systems or equipment that could initiate an analyzed accident. The proposed changes to the annex building column line designations update the annex building column line designations in the UFSAR figures to make them consistent with the [Updated Final Safety Analysis Report] UFSAR figure for the auxiliary building. The radwaste building proposed changes do not affect any accident initiators, because there is no accident initiator located within that building. Based on the above, the

probability of an accident previously evaluated will not be increased by these proposed changes.

The proposed annex and radwaste building configuration changes do not affect any radiological dose consequence analysis for UFSAR Chapter 15. No accident source term parameter or fission product barrier is impacted by these changes. Structures, systems, and components (SSCs) required for mitigation of analyzed accidents are not affected by these changes, and the functions of these buildings are not adversely affected by these changes. Consequently, this activity will not increase the consequences of any analyzed accident, including the main steam line limiting break.

Therefore, the proposed activity does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed annex building changes updating column line designations and the radwaste building change to add three bunkers for storage of moderate and high activity waste, incorporate the Waste Accumulation Room and the Packaged Waste Storage Room, revise shield wall thicknesses, and eliminate a radiation monitor no longer needed, do not change the design function of the either of these buildings or any of the systems or equipment contained therein or in any other Nuclear Island structures. These proposed changes do not adversely affect any system design functions or methods of operation. These changes do not introduce any new equipment or components or change the operation of any existing systems or equipment in a manner that would result in a new failure mode, malfunction, or sequence of events that could affect safety-related or non-safety-related equipment or result in a radioactive material release. This activity does not allow for a new radioactive material release path or result in a new radioactive material barrier failure mode.

Therefore, this activity does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed changes do not affect any safety-related equipment, design code compliance, design function, design analysis, safety analysis input or result, or design/safety margin. The margin in the design of the annex and radwaste buildings is determined by the use of the current codes and standards and adherence to the assumptions used in the analyses of this structure and the events associated with this structure. The column line designations for the annex building in UFSAR Tier 2 figures are updated to make them consistent with the UFSAR figures for the auxiliary building. This change has no adverse impact on plant construction or operation. The design of the radwaste building, including the newly added bunkers for moderate and high activity waste, merging of the Waste Accumulation Room and the Packaged Waste Storage Room, will continue to be in accordance with the same codes and standards as stated in the UFSAR. The activity has no effect on off-site dose analysis for analyzed accidents.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis, and based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: M. Stanford Blanton, Blach & Bingham LLP, 1710 Sixth Avenue North, Birmingham, AL 35203–2015.

NRC Branch Chief: Lawrence J. Burkhart.

Southern Nuclear Operating Company, Inc. Docket Nos. 52–025 and 52–026, Vogtle Electric Generating Plant (VEGP), Units 3 and 4, Burke County, Georgia

Date of amendment request: March 27, 2014. A publicly-available version is available in ADAMS under Accession No. ML14086A544.

Description of amendment request: The proposed change would amend Combined License Nos. NPF–91 and NPF–92 for the VEGP, Units 3 and 4 to revise the Emergency Plan to relocate the Operations Support Centers (OSCs) and revise the description of the plant monitoring system. The OSCs are proposed to be relocated from the Control Support Areas (CSAs) of each unit to a common OSC located in the Maintenance Support Building. Changes to the plant monitoring system used to initiate emergency actions and to conduct accident assessment are proposed due to changes in the plant design. The requested amendment will also revise plant-specific emergency planning inspections, tests, analyses, and acceptance criteria (ITAAC) in Appendix C of the VEGP, Units 3 and 4 combined licenses (COLs). Changes to the plant-specific emergency planning ITAAC are proposed due to changes in the proposed location for the OSC, changes in plant design, changes in expected NRC action regarding regulatory guidance documents, and changes in drill and exercise objective acceptance criteria.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The VEGP, Units 3 and 4 Emergency Plan provides assurance that the requirements of emergency preparedness regulations are met. The VEGP, Units 3 and 4 emergency planning inspections, tests, analyses, and acceptance criteria (ITAAC) provide assurance that the facility has been constructed and will be operated in conformity with the license, the provisions of the Act, and the Commission's rules and regulations. The proposed changes do not affect the design of a system, structure, or component (SSC) used to meet the design bases of the nuclear plant. Nor do the changes affect the construction or operation of the nuclear plant itself, so there is no change to the probability or consequences of an accident previously evaluated. Changing the VEGP, Units 3 and 4 Emergency Plan and the emergency planning ITAAC do not affect prevention and mitigation of abnormal events, e.g., accidents, anticipated operational occurrences, earthquakes, floods and turbine missiles, or their safety or design analyses as the purpose of the plan is to implement emergency preparedness regulations. No safety-related structure, system, component (SSC) or function is adversely affected. The changes do not involve nor interface with any SSC accident initiator or initiating sequence of events, and thus, the probabilities of the accidents evaluated in the Updated Final Safety Analysis Report (UFSAR) are not affected. Because the changes do not involve any safety-related SSC or function used to mitigate an accident, the consequences of the accidents evaluated in the UFSAR are not affected.

Therefore, the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The VEGP, Units 3 and 4 Emergency Plan provides assurance that the requirements of emergency preparedness regulations are met. The VEGP, Units 3 and 4 emergency planning ITAAC provide assurance that the facility has been constructed and will be operated in conformity with the license, the provisions of the Act, and the Commission's rules and regulations. The changes do not affect the design of an SSC used to meet the design bases of the nuclear plant. Nor do the changes affect the construction or operation of the nuclear plant. Consequently, there is no new or different kind of accident from any accident previously evaluated. The changes do not affect safety-related equipment, nor do they affect equipment which, if it failed, could initiate an accident or a failure of a fission product barrier. In addition, the changes do not result in a new failure mode, malfunction or sequence of events that could affect safety or safety-related equipment. No analysis is adversely affected. No system or

design function or equipment qualification is adversely affected by the changes. This activity will not allow for a new fission product release path, nor will it result in a new fission product barrier failure mode, nor create a new sequence of events that would result in significant fuel cladding failures.

Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The VEGP, Units 3 and 4 Emergency Plan provides assurance that the requirements of emergency preparedness regulations are met. The VEGP, Units 3 and 4 emergency planning ITAAC provide assurance that the facility has been constructed and will be operated in conformity with the license, the provisions of the Act, and the Commission's rules and regulations. The changes do not affect the assessments or the plant itself. The changes do not adversely interface with safety-related equipment or fission product barriers. No safety analysis or design basis acceptance limit/criterion is challenged or exceeded by the proposed change.

Therefore, the proposed amendment does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: M. Stanford Blanton, Balch & Bingham LLP, 1710 Sixth Avenue North, Birmingham, AL 35203–2015.

NRC Branch Chief: Lawrence J. Burkhart.

III. Notice of Issuance of Amendments to Facility Operating Licenses and Combined Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

A notice of consideration of issuance of amendment to facility operating license or combined license, as applicable, proposed no significant hazards consideration determination, and opportunity for a hearing in connection with these actions, was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.22(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items can be accessed as described in the ''Accessing Information and Submitting Comments'' section of this document.

Dominion Nuclear Connecticut, Inc., Docket No. 50–336, Millstone Power Station (MPS), Unit 2, New London County, Connecticut

Date of amendment request: May 3, 2013, as supplemented by letters dated June 27, 2013, July 19, 2013, July 30, 2013, August 1, 2013, and October 2, 2013.

Description of amendment request: The proposed amendment would revise the MPS, Unit 2 Technical Specification (TS) 3/4.7.11, ''Ultimate Heat Sink,'' to increase the current ultimate heat sink water temperature limit from 75 °F to 80 °F and change the TS Action to state, ''With the ultimate heat sink water temperature greater than 80 °F, be in HOT STANDBY within 6 hours and in COLD SHUTDOWN within the following 30 hours.''

Date of issuance: April 18, 2014.

Effective date: As of the date of issuance, and shall be implemented within 60 days.

Amendment No.: 318. A publicly-available version is in ADAMS under Accession No. ML14037A408; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Renewed Facility Operating License No. DPR–65: Amendment revised the License and Technical Specifications.

*Date of initial notice in **Federal Register**:* August 20, 2013 (78 FR 51225). The supplemental letters dated June 27, 2013, July 19, 2013, July 30, 2013, August 1, 2013, and October 2, 2013, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 18, 2014.

No significant hazards consideration comments received: No.

DTE Electric Company, Docket No. 50–341, Fermi 2, Monroe County, Michigan

Date of application for amendment: April 17, 2013.

Brief description of amendment: The amendment revised the Fermi 2 Action and Surveillance Requirements in technical specification (TS) 3.7.3, ''Control Room Emergency Filtration (CREF) System,'' and added a new administrative controls program, TS 5.5.14, ''Control Room Envelope Habitability Program.''

Date of issuance: April 18, 2014.

Effective date: As of the date of issuance and shall be implemented within 60 days of issuance.

Amendment No.: 198. A publicly-available version is in ADAMS under Accession No. ML14098A062; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Facility Operating License No. NPF–43: Amendment revised the Facility Operating License and Technical Specifications.

*Date of initial notice in **Federal Register**:* August 20, 2013 (78 FR 51222).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 18, 2014.

No significant hazards consideration comments received: No.

Nebraska Public Power District, Docket No. 50–298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of application for amendment: April 24, 2012, as supplemented by letters dated July 12, and August 23, 2012; January 14, February 12, March 13, June 13, and December 12, 2013; and January 17, February 18, and April 11, 2014.

Brief description of amendment: The amendment authorizes the transition of the Cooper Nuclear Station fire protection program to a risk-informed, performance-based program based on National Fire Protection Association (NFPA) 805, in accordance with 10 CFR 50.48(c). NFPA 805 allows the use of performance-based methods such as fire modeling and risk-informed methods such as fire probabilistic risk assessment to demonstrate compliance with the nuclear safety performance criteria.

Date of issuance: April 29, 2014.

Effective date: As of its date of issuance and shall be implemented by 12 months from the date of issuance.

Amendment No.: 248. A publicly-available version is in ADAMS under Accession No. ML14055A023; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Renewed Facility Operating License No. DPR–46: The amendment revised the Operating License and Technical Specifications.

Date of initial notice in ***Federal Register****:* November 26, 2012 (78 FR 70593). The supplements dated December 12, 2013; and January 17, February 18, and April 11, 2014, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 29, 2014.

No significant hazards consideration comments received: No.

Virginia Electric and Power Company, et al., Docket Nos. 50–280 and 50–281, Surry Power Station, Units 1 and 2, Surry County, Virginia

Date of application for amendments: May 13, 2013, as supplemented by letters dated September 9, 2013, and March 13, 2014.

Brief Description of amendments: The amendments revise Surry, Units 1 and 2, Technical Specifications 4.17, ''Shock Suppressors (Snubbers),'' to delete detailed surveillance requirements for snubbers and add TS 6.4.T, ''Inservice Examination, Testing, and Service Life Monitoring Program for Snubbers,'' which requires the surveillance requirements for snubbers be in accordance with the ASME OM Code, Subsection ISTD, as provided in NRC regulations. The amendments also relocate the detailed surveillance requirements to the Surry, Units 1 and 2, Inservice Examination, Testing and Service Life Monitoring Program Plans for Snubbers.

Date of issuance: April 24, 2014.

Effective date: As of the date of issuance and shall be implemented within 60 days.

Amendment Nos.: 281, 281. A publicly-available version is in ADAMS under Accession No. ML14073A405; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Renewed Facility Operating License Nos. DPR–32 and DPR–37: Amendments change the licenses and the technical specifications.

Date of initial notice in ***Federal Register****:* July 9, 2013 (78 FR 41122). The supplements dated September 9, 2013 and March 13, 2014, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 24, 2014.

No significant hazards consideration comments received: No.

Dated at Rockville, Maryland, this 5th day of May 2014.

For the Nuclear Regulatory Commission.

Michele G. Evans,

Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2014–10718 Filed 5–12–14; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold a Closed Meeting on Thursday, May 15, 2014 at 2:00 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or her designee, has certified that, in her opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), 9(B) and (10) and 17 CFR 200.402(a)(3), (5), (7), 9(ii) and (10), permit consideration of the scheduled matter at the Closed Meeting.

Commissioner Gallagher, as duty officer, voted to consider the items listed for the Closed Meeting in closed session, and determined that no earlier notice thereof was possible.

The subject matter of the Closed Meeting will be:

Institution and settlement of injunctive actions; institution and settlement of administrative proceedings; a civil litigation matter; an adjudicatory matter; and other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact the Office of the Secretary at (202) 551–5400.

Dated: May 9, 2014.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–11057 Filed 5–9–14; 4:15 pm]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72119; File No. SR–Phlx–2014–23]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing of Proposed Rule Change Related to the Priority Afforded to In-Crowd Participants Respecting Crossing, Facilitation and Solicited Orders in Open Outcry Trading

May 7, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1], and Rule 19b–4 thereunder,[2] notice is hereby given that on April 23, 2014, NASDAQ OMX PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to revise the priority afforded to in-crowd participants respecting crossing, facilitation and solicited orders in open outcry trading.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqomxphlx.cchwallstreet.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 1014, Commentary .05(c)(ii), to afford priority in open outcry trading to in-crowd participants over out-of-crowd Streaming Quote Traders (''SQTs'') [3], Remote Specialists [4], and Remote Streaming Quote Traders (''RSQTs'') [5] and over out-of-crowd broker-dealer limit orders on the limit order book (but not over public customer orders) in crossing [6], facilitation [7] and solicited [8] orders, regardless of order size.

Deletion of 500 Contract Minimum Size

Currently, Commentary .05(c)(i) to Phlx Rule 1014 provides that, in the event that a Floor Broker or specialist [9] presents a non-electronic order in which an RSQT is assigned or which is allocated to a Remote Specialist, and/or in which an SQT assigned in such option is not a crowd participant (collectively, ''Non-Crowd Participants''), such Non-Crowd Participant may not participate in trades stemming from such a non-electronic order unless the non-electronic order is executed at the price quoted by the Non-Crowd Participant at the time of execution.

However, if the non-electronic order *is* executed at the price quoted by the Non-Crowd Participant, the Non-Crowd Participant may participate in the trade unless the order was a crossing, facilitation or solicited order with a size of at least 500 contracts on each side.[10] If the order is a crossing, facilitation or solicited order with a size of at least 500 contracts on each side, Commentary .05(c)(ii) gives priority to in-crowd participants (including, for purposes of Commentary .05(c)(ii) only, Floor Brokers) over Non-Crowd Participants and over out-of-crowd broker-dealer limit orders on the limit order book, but not over public customer orders.[11] Such orders are allocated in accordance with Exchange rules. By affording priority to in-crowd participants over Non-Crowd Participants and out-of-crowd broker-dealer limit orders in crossing, facilitation and solicited orders with a size of at least 500 contracts represented and executed in open outcry, the Exchange encourages order flow providers to send such orders to the Exchange.

The Exchange now proposes to further encourage order flow providers to send such orders to the Exchange by eliminating the 500 contract minimum order size from Commentary .05(c)(ii). As amended, the rule would afford priority to in-crowd participants over Non-Crowd Participants and out-of-crowd broker-dealer limit orders in crossing, facilitation and solicited orders regardless of the size of those orders. The current 500 contract minimum size requirement presents the possibility that one of the two sides of a Floor Brokered cross will not be fully executed on the trading floor. The size requirement was initially adopted by the Exchange in 2006 to foster the new electronic trading of options, by limiting participation of in-crowd participants in order to permit Non-Crowd Participants to participate in smaller (under five hundred contracts) Floor Broker crosses.[12] Today, electronic options trading is well-established and no longer requires such special rules and incentives to develop further.

The Exchange believes that by extending priority to in-crowd participants over Non-Crowd Participants and out-of-crowd broker-dealer limit orders in *all* crossing, facilitation and solicited orders represented and executed in open outcry, regardless of size, in-crowd participants such as Floor Brokers will be enabled to provide full service to their clients as they seek to execute such orders. By way of explanation, the size of orders given to Floor Brokers by member participants varies throughout the trading day, and generally those participants expect the same experience regardless of order size when evaluating priority of electronic quotes with respect to cross orders executed on the trading floor. Another options exchange does not have the same differentiation

[3] An SQT is defined in Exchange Rule 1014(b)(ii)(A) as a Registered Options Trader (''ROT'') who has received permission from the Exchange to generate and submit option quotations electronically in options to which such SQT is assigned. A ROT includes a SQT, a RSQT and a Non-SQT [sic], which by definition is neither a SQT or a RSQT. A Registered Options Trader is defined in Exchange Rule 1014(b) [sic] as a regular member of the Exchange located on the trading floor who has received permission from the Exchange to trade in options for his own account. *See* Exchange Rule 1014(b)(i) and (ii).

[4] A Remote Specialist is a qualified RSQT approved by the Exchange to function as a specialist in one or more options if the Exchange determines that it cannot allocate such options to a floor based specialist. A Remote Specialist has all the rights and obligations of a specialist, unless Exchange rules provide otherwise. *See* Exchange Rules 501 and 1020. *See also,* Securities Exchange Act Release No. 63717 (January 14, 2011), 76 FR 4141 (January 24, 2011) (SR–Phlx–2010–145).

[5] A RSQT is defined in Exchange Rule 1014(b)(ii)(B) as an ROT that is a member affiliated with a Remote Streaming Quote Trader Organization (''RSQTO'') with no physical trading floor presence who has received permission from the Exchange to generate and submit option quotations electronically in options to which such RSQT has been assigned. A qualified RSQT may function as a Remote Specialist upon Exchange approval. An RSQT may only submit such quotations electronically from off the floor of the Exchange. An RSQT may not submit option quotations in eligible options to which such RSQT is assigned to the extent that the RSQT is also approved as a Remote Specialist in the same options. An RSQT may only trade in a market making capacity in classes of options in which he is assigned or approved as a Remote Specialist. An RSQTO is a member organization in good standing that satisfies the RSQTO readiness requirements in Rule 507(a) [sic].

[6] A crossing order occurs when an options Floor Broker holds orders to buy and sell the same option series. Such a Floor Broker may cross such orders, provided that the trading crowd is given an opportunity to bid and offer for such option series in accordance with Exchange rules. *See* Phlx Rule 1064(a).

[7] A facilitation order occurs when an options Floor Broker holds an options order for a public customer and a contraside order. Such a Floor Broker may execute such orders as a facilitation order, provided that such Floor Broker proceeds in accordance with Exchange rules concerning facilitation orders. *See* Phlx Rule 1064(b).

[8] A solicitation occurs whenever an order, other than a cross, is presented for execution in the trading crowd resulting from an away-from-the-crowd expression of interests to trade by one broker dealer to another. *See* Phlx Rule 1064(c).

[9] A ''Specialist'' is an Exchange member who is registered as an options specialist pursuant to Rule 1020(a).

[10] This in-crowd priority applies only to crossing, facilitation and solicited orders represented in open outcry, and does not apply to orders submitted electronically via the Exchange's electronic options trading platform, to which other priority rules apply. *See, e.g.,* Phlx Rules 1014(g)(vii) and (viii).

[11] In keeping with current Exchange practices and rules, public customer limit orders represented in the trading crowd and resting on the limit order book have, and will continue to have, priority over all other participants and accordingly must be executed up to the aggregate size of such orders before any in-crowd participant is entitled to priority. Public customer orders on the limit order book that are eligible for execution are required to be executed before a Floor Broker may execute its order in the crowd and/or with a contra-side order it holds.

[12] *See* Securities Exchange Act Release No. 54267 (August 3, 2006), 71 FR 45888 (August 10, 2006). *See also* Securities Exchange Act Release No. 64401 (May 4, 2011), 76 FR 27105 (May 10, 2011) (amending the rule to state that in-crowd participants in such orders also have priority over out-of-crowd broker-dealer limit orders on the limit order book).

of priority for orders of fewer than 500 contracts [13], and the different priority for orders with a size under 500 contracts has become an impediment to Phlx members soliciting orders. By removing the 500 contract minimum size distinction, the Exchange would permit Floor Brokers to access in-crowd liquidity for all order sizes, thereby providing full order execution service to their clients.

To illustrate the application of the revised rule, assume the following ranking of bids on Phlx:

RSQT market 1.00 bid x 1000
Out of crowd SQT market 1.00 bid x 200
In-crowd participants 1.00 bid x 100
Public customer order on the book 1.00 bid x 100
Broker-dealer order on the book 1.00 bid x 100

Assume a Floor Broker enters the trading crowd with a cross order. This cross order is an order to sell 10,000 contracts and a contra order to buy 10,000 contracts at 1.00. Under the current rule, after selling to all 1.00 public customer interest on the book (100 contracts) and to all 1.00 interest in the trading crowd (100 contracts), the Floor Broker is allowed to cross the remaining interest (9,800 contracts) at 1.00, with priority over RSQTs, out-of-crowd SQTs and broker-dealer limit orders on the book.[14]

If in this example, however, the Floor Broker's order to sell and contra order to buy at 1.00 were only for 400 contracts, the Floor Broker would be unable to cross the 200 contracts remaining interest after selling to all 1.00 public customer interest on the book (100) and to all 1.00 interest in the trading crowd (100 contracts) because the current rule gives the Floor Broker no priority over RSQTs, out-of-crowd SQTs and broker-dealer orders on the book respecting orders less than 500 contracts. The rule as revised would remove the limitation of the 500 contract minimum. Thus, under the revised rule, the Floor Broker in the example could enter the trading crowd with an order to sell 400 contracts and a contra order to buy 400 contracts at 1.00. After selling to all 1.00 public customer interest on the book (100) and to all 1.00 interest in the trading crowd (100 contracts), the Floor Broker would be allowed to cross the remaining interest (200 contracts) at 1.00, with priority over RSQTs, out-of-crowd SQTs and broker-dealer orders on the book.[15]

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the provisions of Section 6 of the Act,[16] in general, and with Section 6(b)(5) of the Act,[17] in particular, which requires that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest, because it would encourage order flow providers to send additional crossing, facilitation and solicited orders to the Exchange, free of concerns that the order may not be completely executed by the trading crowd. As noted above, the size of orders given to Floor Brokers by member participants varies throughout the trading day, and generally those participants expect the same experience regardless of order size when evaluating priority of electronic quotes with respect to cross orders executed on the trading floor. By removing the 500 contract minimum size distinction, the Exchange would permit Floor Brokers to access in-crowd liquidity for all order sizes thereby enabling them to provide full service to member participants no matter the order size.

The Exchange believes that treating crossing, facilitation and solicitation orders of under 500 contracts on each side no differently from such orders of greater size creates no unfair disadvantage to investors. Elimination of the 500 contract minimum threshold size is just and equitable, because Non-Crowd Participants are not required to respond to a Floor Broker entering the crowd and requesting a market, whereas in-crowd participants are required to verbalize a market in response to such a request. The Exchange also believes that the proposal promotes just and equitable principles of trade by retaining public customer priority in all cases. The instant proposal will not affect public customer priority and the Exchange will continue to execute public customer limit orders up to their aggregate size at a particular price point.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. To the contrary, it should provide greater incentive for order flow providers to submit crossing, facilitation and solicited orders to the Exchange, thus enabling the Exchange to compete with another exchange that has similar rules in effect.[18] Further, with respect to intra-market competition between crowd participants and Non-Crowd Participants, the proposed rule change will not result in any burden on competition. The proposed rule change should actually bolster competition. For example, assume the following market:

RSQT market 2.00 bid x 200
Out-of-crowd SQT market 2.00 bid x 200
In-crowd participants 1.70 bid x 100
Public customer order no bid on the book

Assume that a Floor Broker walks into the crowd with a cross order to buy 400 contracts at 2.00 and to sell 400 contracts at 2.00. Under the current rule, the Floor Broker would not have priority at 2.00 to allow the buy order of 400 contracts at 2.00 to participate. The seller would forego the liquidity of the 2.00 bid the Floor Broker was handling and would need to sell 400 to the RSQT and out-of-crowd SQT utilizing their posted liquidity, and likely moving the market of the 2.00 bid lower after the trade. The rule as proposed would, instead, permit utilization of the liquidity of the Floor Broker's 2.00 bid by giving the 2.00 bid priority over the RSQT and out of crowd SQT thus keeping the posted liquidity intact at the existing bid of 2.00. The Exchange believes the residual 2.00 bidders would have extra incentive to compete by either maintaining their bid hoping to trade with additional selling interest or to increase their bid in order to vie for participation in the next sell order. The Exchange also believes that affording priority in to in-crowd participants regardless of size will attract additional smaller cross orders to the Exchange, creating an opportunity

[13] *See* Chicago Board Options Exchange (''CBOE'') Rule 6.74, Crossing Orders.

[14] If the order in this paragraph's example were a facilitation order or a solicitation order, the resulting allocation of contracts would be no different.

[15] As above, if the crossing order in this paragraph's example were a facilitation order or a solicited order, the resulting allocation of contracts would be no different.

[16] 15 U.S.C. 78f.

[17] 15 U.S.C. 78f(b)(5).

[18] *See* CBOE Rule 6.74 (which affords priority to in-crowd participants over out-of-crowd participants, including non-public customer orders on the limit order book, in all open outcry situations after public customers on the limit order book have been executed) and Securities Exchange Act Release No. 54726 (November 8, 2006), 71 FR 66810 (November 16, 2006) (SR–CBOE–2006–89).

for in crowd market makers to compete for the smaller crosses as well.[19]

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will: (A) By order approve or disapprove such proposed rule change, or (B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. The Commission requests comments, in particular, on the following aspects of the proposed rule change:

1. What are commenters' views on how, if at all, the proposed rule change would affect: (1) Incentives to submit limit orders; (2) quoted spreads and quoted depth; and/or (3) transaction costs for orders below 500 contracts? Please elaborate.

2. What are commenters' views on how, if at all, orders for more than 500 contracts differ from orders for less than 500 contracts? Please elaborate. Are the underlying investors/traders or the investing/trading strategies different? Please explain. What types of investor or market participant, if any, would likely be significantly affected by the proposed rule change? Please explain.

3. Commenters are requested to provide empirical data and other factual support for their views.

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–Phlx–2014–23 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–Phlx–2014–23. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*).

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–Phlx–2014–23 and should be submitted on or before June 3, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–10900 Filed 5–12–14; 8:45 am]

BILLING CODE 8011–01–P

[19] The Exchange notes that it is *not* proposing to eliminate the 500 contract minimum eligible order size in Rule 1064, Commentary .02. This provision entitles a Floor Broker to cross (after all public customer orders that were (1) on the limit order book and then (2) represented in the trading crowd at the time the market was established have been satisfied) 40% of the remaining contracts in an order of the eligible size, if the order traded at or between the best bid or offer given by the crowd in response to the Floor Broker's initial request for a market. *See* Rule 1064, Commentary .02(iii). This aspect of intra-market competition in the context of orders under 500 contracts is being maintained.

[20] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72116; File No. SR–ICC–2014–02]

Self-Regulatory Organizations; ICE Clear Credit LLC; Order Approving Proposed Rule Change To Update ICC's Liquidity Thresholds for Euro Denominated Products

May 7, 2014.

I. Introduction

On March 12, 2014, ICE Clear Credit LLC (''ICC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change SR–ICC–2014–02 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder.[2] The proposed rule change was published for comment in the **Federal Register** on April 1, 2014.[3] The Commission received no comment letters regarding the proposed change. For the reasons discussed below, the Commission is granting approval of the proposed rule change.

II. Description

ICC is proposing to update its liquidity thresholds for Euro denominated products. Under the proposed changes, ICC will require the first 65% of Clearing Participant Non-Client Initial Margin and Guaranty Fund Liquidity Requirements (''Non-Client Liquidity Requirements'') to be satisfied with collateral in the currency of the underlying instrument. ICC notes that for United States Dollar (''USD'') denominated products, its rules already state that the first 65% of Non-Client Liquidity Requirements must be satisfied with USD denominated collateral, the first 45% of which must be posted in USD cash and the next 20% of which may be posted in USD denominated assets (USD cash and/or US Treasury securities). Currently, for Euro denominated products, 45% of Non-Client Liquidity Requirements must be posted in Euro cash and the next 20% may be posted in Euro cash, USD cash, and/or US Treasury securities.

Accordingly, ICC proposes updating the liquidity thresholds for Euro denominated products, listed in Schedule 401 of the ICC Rules, to require the first 65% of Non-Client Liquidity Requirements for Euro denominated products to be satisfied

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 34–71810 (March 26, 2014), 79 FR 18377 (April 1, 2014) (SR–ICC–2014–02).

with Euro cash. ICC states that this change is intended to increase the Euro cash Non-Client Liquidity Requirements for Euro denominated products and create more consistent liquidity requirements across USD and Euro denominated products. In addition to updating its rules, ICC also proposes to update the ICC Treasury Operations Policies and Procedures to reflect the proposed change in ICC's Non-Client Liquidity Requirements for Euro denominated products. ICC states that the update to the ICC Treasury Operations Policies and Procedures will not require any operational changes.

ICC also proposes to remove redundant references to ''US cash'' in Schedule 401 of the ICC Rules, as US cash is included in all ''G7 cash'' references.

III. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act [4] directs the Commission to approve a proposed rule change of a self-regulatory organization if the Commission finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such self-regulatory organization. Section 17A(b)(3)(F) of the Act [5] requires, among other things, that the rules of a clearing agency are designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions, to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible and, in general, to protect investors and the public interest.

The Commission finds that the proposed rule change is consistent with the requirements of Section 17A of the Act.[6] The proposed change provides ICC with increased available liquidity and is therefore consistent with the requirements of Section 17A(b)(3)(F) of the Act [7] of promoting the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivatives agreements, contracts, and transactions, and helping to protect investors and the public interest.

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act [8] and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[9] that the proposed rule change (File No. SR–ICC–2014–02) be, and hereby is, approved.[10]

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–10897 Filed 5–12–14; 8:45 am]

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[4] 15 U.S.C. 78s(b)(2)(C).

[5] 15 U.S.C. 78q–1(b)(3)(F).

[6] 15 U.S.C. 78q–1.

[7] 15 U.S.C. 78q–1(b)(3)(F).

[8] 15 U.S.C. 78q–1.

[9] 15 U.S.C. 78s(b)(2).

[10] In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72118; File No. SR–ISEGemini–2014–09]

Self-Regulatory Organizations; ISE Gemini, LLC; Notice of Designation of a Longer Period for Commission Action on Proposed Rule Change Related to Market Maker Risk Parameters

May 7, 2014.

On March 10, 2014, ISE Gemini, LLC (the ''Exchange'' or ''ISE Gemini'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend ISE Gemini Rule 804 to mitigate market maker risk by adopting an Exchange-provided risk management functionality. The proposed rule change was published for comment in the **Federal Register** on March 26, 2014.[3] The Commission received no comments on the proposal.

Section 19(b)(2) of the Act [4] provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day for this filing is May 10, 2014. The Commission is extending this 45-day time period.

The Commission finds it appropriate to designate a longer period within which to take action on the proposed rule change, so that it has sufficient time to consider this proposed rule change.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[5] designates June 24, 2014, as the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR–ISEGemini–2014–09).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–10899 Filed 5–12–14; 8:45 am]

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 71758 (March 20, 2014), 79 FR 16846.

[4] 15 U.S.C. 78s(b)(2).

[5] *Id.*

[6] 17 CFR 200.30–3(a)(31).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72114; File No. SR–FINRA–2014–004]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Order Approving a Proposed Rule Change Relating to Amendments to FINRA Rule 5110 (Corporate Financing Rule—Underwriting Terms and Arrangements) As Amended

May 7, 2014.

On January 24, 2014, the Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend FINRA Rule 5110 (Corporate Financing Rule—Underwriting Terms and Arrangements). On February 4, 2014, FINRA filed Amendment No. 1 to the proposed rule change. The proposed rule change was published for comment in the **Federal Register** on February 11, 2014.[3] The Commission received one

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 71486 (February 5, 2014), 79 FR 8226 (SR–FINRA–2014–004) (''Notice'').

comment letter on the proposal.[4] On March 31, 2014, FINRA responded to the comment letter.[5] This order approves the proposed rule change, as amended.

I. Description of the Proposed Rule Change [6]

FINRA Rule 5110, among other things, regulates underwriting compensation, requires the filing of specified information in connection with public offerings in which members will participate, and prohibits unfair arrangements in connection with public offerings of securities. FINRA proposes to amend the Rule's provisions regarding unfair arrangements to: (1) Expand the circumstances under which members and issuers may negotiate termination fees and rights of first refusal (''ROFR''), with specified conditions; (2) exempt from the filing requirements exchange-traded funds formed as grantor or statutory trusts; and (3) codify the electronic filing requirement.

Termination Fees and Rights of First Refusal

Rule 5110(f) (Unreasonable Terms and Arrangements) sets forth terms and arrangements that, when proposed in connection with a public offering of securities, are considered unfair and unreasonable. Rule 5110(f)(2)(D) addresses fees in connection with a public offering of securities that is not completed according to the terms of the agreement between the issuer and underwriter (''terminated offering''). Specifically, Rule 5110(f)(2)(D) generally provides that it is unfair and unreasonable for a member to arrange for the payment of any compensation by an issuer in connection with a terminated offering (''termination fee'' or ''tail fee''). Rule 5110(f)(2)(D) further clarifies that this prohibition does not include compensation negotiated and paid in connection with a separate transaction that occurs in lieu of the proposed offering, or reimbursement of out-of-pocket accountable expenses actually incurred by the member.[7] Currently, Rule 5110(f)(2)(E) provides that, in the event an issuer terminates an offering with an underwriter and subsequently consummates a similar transaction, a termination fee may be permissible under certain circumstances.

FINRA is proposing to amend Rule 5110(f)(2) (Prohibited Arrangements) to generally permit termination fees where: (1) The agreement between the participating member and the issuer specifies that the issuer has a right of ''termination for cause'' (*i.e.,* where a member fails materially to perform the underwriting services contemplated in the written agreement); [8] (2) the agreement specifies that an issuer's exercise of its right of ''termination for cause'' eliminates any obligations with respect to the payment of any termination fee; [9] (3) the amount of any specified termination fee is reasonable in relation to the services contemplated in the written agreement; and (4) the agreement specifies that the issuer is not responsible for paying the termination fee unless an offering or other type of transaction is consummated by the issuer (without involvement of the member) within two years of the date the issuer terminates the engagement with the member. FINRA indicated that the change to the rule would provide members with additional flexibility to negotiate termination fees.

Current Rule 5110(f)(2)(F) and (G) addresses ROFRs, which provide a member with the right to underwrite or participate in future public offerings, private placements or other financings of the issuer. Rule 5110(f)(2)(F) deems as unfair and unreasonable any ROFR provided to a member that: (1) Has a duration of more than three years from the date of effectiveness or commencement of sales of the public offering, or (2) provides more than one opportunity to waive or terminate the ROFR in consideration of any payment or fee.[10] Rule 5110(f)(2)(G) prohibits any payment or fee to waive or terminate a ROFR regarding future public offerings, private placements or other financings that exceed specified values or that is not paid in cash.

FINRA also proposes amendments to permit ROFRs in both successful and terminated offerings. ROFRs would be permissible where: (1) The agreement between the participating member and issuer specifies that the issuer has a right of termination for cause (*i.e.,* where a member fails materially to perform the underwriting services contemplated in the written agreement); (2) an issuer's exercise of its right of termination for cause eliminates any obligations with respect to the provision of any ROFR; and (3) any fees arising from services provided under a ROFR are customary for those types of services. The Rule would continue to provide that the duration of any ROFR must be less than three years from the date of commencement of sales of the public offering (in the case of a successful offering). In the case of a terminated offering, the duration must be less than three years from the date the issuer terminates the engagement. The agreement may not provide for more than one opportunity to waive or terminate the ROFR in consideration of any payment or fee.[11]

Filing Requirements for Certain Exchange-Traded Funds

Rule 5110(b)(8) (Exempt Offerings) generally provides an exemption for investment companies from the filing requirements of the Rule.[12] Due to this exemption, exchange-traded funds (''ETFs'') that are structured as investment companies generally are exempt. However, this exemption does not include certain other ETFs that are not investment companies. FINRA

[4] *See* Letter from Stephen E. Roth and Susan S. Krawczyk, Sutherland Asbill & Brennan LLP, on behalf of the Committee of Annuity Insurers (''CAI''), Washington, District of Columbia to Elizabeth M. Murphy, Secretary, Commission, dated March 4, 2014 (''CAI Letter'').

[5] *See* Letter from Kathryn M. Moore, Associate General Counsel, FINRA, to Kevin O'Neill, Deputy Secretary, Commission (''FINRA Letter'').

[6] A more detailed description of the proposal is contained in the Notice. *See supra* note 4.

[7] Rule 5110(f)(2)(C) prohibits payment of commissions or reimbursement of expenses to an underwriter prior to the commencement of the sale of the securities being offered, except for a reasonable advance against out-of-pocket accountable expenses actually anticipated to be incurred by the underwriter. If the expenses are not actually incurred, any advance received must be returned to the issuer. Paragraph (D) currently provides that the reimbursement of out-of-pocket accountable expenses actually incurred by the member will not be presumed to be unfair or unreasonable under normal circumstances. The proposed amendment modifies paragraph (D) to specify that out-of-pocket accountable expenses must be *bona fide.*

[8] The specific meaning of ''termination for cause'' would be dictated by the agreement. For purposes of this proposal, FINRA has defined a ''termination for cause'' to include a member's material failure to perform the underwriting services contemplated in the written agreement, but events that are outside the participating member's control are not required to be included in the definition.

[9] Members would continue to be permitted to receive reimbursement of out-of-pocket, *bona fide,* accountable expenses actually incurred by the participating member in connection with a terminated offering.

[10] Historically, FINRA has interpreted the Rule to permit ROFRs only in the case of successful offerings.

[11] FINRA is proposing to redesignate Rule 5110(f)(2)(G) as Rule 5110(f)(2)(F), which prohibits any payment or fee to waive or terminate a ROFR regarding future public offerings, private placements or other financings that exceed specified values or that is not paid in cash.

[12] Rule 5110(b)(8)(C) exempts from the Rule's filing requirements securities of ''open-end'' investment companies as defined in Section 5(a)(1) of the Investment Company Act of 1940 (''Investment Company Act'') and securities of any ''closed-end'' investment company as defined in Section 5(a)(2) of the Investment Company Act that: (1) Make periodic repurchase offers pursuant to Rule 23c–3(b) under of the Investment Company Act; and (2) offer their shares on a continuous basis pursuant to Rule 415(a)(1)(xi) of SEC Regulation C.

proposes to add an exemption for these ETFs that are not included in the definition of an ''investment company'' because the creation structure of ETFs is not a distribution model that Rule 5110 was designed to address. Specifically, FINRA is proposing to exempt offerings of securities issued by a pooled investment vehicle, whether formed as a trust, partnership, corporation, limited liability company or other collective investment vehicle, that is not registered as an investment company under the Investment Company Act and has a class of equity securities listed for trading on a national securities exchange, provided that such equity securities may be created or redeemed on any business day at their net asset value per share.

Electronic Filing

Rule 5110(b) (Filing Requirements) generally provides that no member or person associated with a member shall participate in any manner in a public offering of securities subject to Rules 2310, 5110 or 5121 unless the specified documents and information relating to the offering have been filed with and reviewed by FINRA. FINRA proposes to amend the Rule to make clarifying, non-substantive changes regarding documents filed through FINRA's electronic filing system.[13]

II. Discussion of Comments and FINRA's Response

In response to the Commission's request for comment on the proposed rule change,[14] the Commission received one comment letter from the CAI.[15] CAI stated that it has no objection to FINRA's proposed rule change, but CAI stated its belief that, consistent with the proposal to treat different types of ETFs the same, FINRA should also exempt different types of insurance contracts from the filing requirements of the Corporate Financing Rule.[16] The commenter points out that in its current form, Rule 5110(b)(8) provides exemptions for only three types of insurance contracts,[17] but not for other offerings of insurance contracts.[18] Consequently, CAI proposes that ''FINRA also consider an additional 'catch-all' exemption for offerings of insurance contracts not explicitly described in existing exemptions from the Corporate Financing Rule in order to clarify and confirm that offerings of insurance contracts are not subject to the filing requirements of the Corporate Financing Rule.'' [19] CAI states that these presently non-exempt contracts share a number of features with the contract types that are exempt from the Corporate Financing Rule.[20] CAI therefore proposes that FINRA amend Rule 5110(b)(8) to exempt offerings of insurance premium funding programs and any other types of insurance contracts issued by an insurance company (not otherwise covered in an exemption above), except contracts which are exempt securities pursuant to Section 3(a)(8) of the Securities Act of 1933.[21]

In its response, FINRA stated that it appreciates CAI's comments, but considers the comments to be outside the scope of the proposal.[22] FINRA stated that it will separately consider the comments and determine whether any future action is appropriate.[23]

III. Discussion and Commission Findings

The Commission has carefully reviewed the proposed rule change, the comment letter, and FINRA's response to the comment letter, and believes that FINRA has adequately addressed the comment letter. The Commission finds that the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to a national securities association.[24] In particular, the Commission finds that the proposed rule change is consistent with Section 15A(b)(6) of the Act,[25] which, among other things, requires that FINRA rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

As discussed above, FINRA proposes to amend Rule 5110(f) to expand the circumstances under which members and issuers may negotiate termination fees and ROFR. The Commission believes that the proposed rule change is reasonable because it may provide more flexibility to issuers and participating members in negotiating termination fees and terms and arrangements for ROFR, while also promoting the protection of issuers where a member fails materially to perform the underwriting services contemplated in the written agreement.

Additionally, as discussed above, FINRA proposes to amend Rule 5110(b) to extend the exemption from the filing requirements of Rule 5110(b)(8) that is generally afforded to ETFs structured as investment companies to ETFs formed as grantor or statutory trusts. The Commission believes that extending this exemption to these ETFs is reasonable because it will ensure that similarly situated ETFs are treated the same under Rule 5110.

Lastly, FINRA proposes amendments to Rule 5110 to codify the electronic filing requirement. The Commission believes that this amendment is reasonable because it will provide clarification regarding the manner by which documents are filed with FINRA.

For the reasons stated above, the Commission finds that the rule change is consistent with the Act and the rules and regulations thereunder.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[26] that the proposed rule change (SR–FINRA–2014–004) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[27]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–10895 Filed 5–12–14; 8:45 am]

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[13] The effective date of the electronic filing requirements under Rule 5110 was July 12, 2002. *See* Notice *supra* note 4.

[14] *See* Notice *supra* note 4.

[15] *See supra* note 5.

[16] *See supra* note 5, at 2.

[17] *See supra* note 5, at 2–3. Specifically, these contracts are: exempted securities, as defined in Section 3(a)(12) of the Act; variable contracts, as defined in FINRA Rule 2320(b); and modified guaranteed annuity contracts and modified guaranteed life insurance policies. *See id.*

[18] Such insurance contracts could include annuity and life insurance contracts using an indexed method for crediting interest, synthetic guaranteed withdrawal benefit products (also known as contingent annuities), and combination long-term care insurance with cash value annuities and life insurance products. *See supra* note 5, at 3.

[19] *See supra* note 5, at 1–2.

[20] *See supra* note 5, at 4.

[21] *See id.*

[22] *See supra* note 6, at 2.

[23] *See id.*

[24] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[25] 15 U.S.C. 78*o*–3(b)(6).

[26] 15 U.S.C. 78s(b)(2).

[27] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72115; File No. SR–CBOE–2014–039]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of a Proposed Rule Change To Amend Certain Margin Rules for Volatility Index Options

May 7, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 28, 2014, the Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

CBOE proposes to amend certain margin rules for volatility index options. The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

Over the past decade, the Exchange has received approval from the Commission to list options on different types of volatility indexes, including volatility indexes comprised of options on: (1) Broad-based indexes, (2) individual stocks; and (3) exchange traded funds (''ETFs''). For each volatility index comprised of broad-based index options, the Exchange received approval to classify each respective volatility index as a ''broad-based index'' for margin purposes.[3] For stock and ETF-based volatility indexes, the margin requirements were set at the same levels that apply to equity options.[4]

The Exchange is proposing to amend CBOE Rules 12.3 (Margin Requirements) and 12.4 (Portfolio Margin) to increase the minimum margin requirements for certain 30-day volatility index options and for options on the VXST Index, which is designed to reflect investors' consensus view of 9-day expected stock market volatility. To affect these changes as new minimum margin requirements going forward, the Exchange is proposing to add the proposed margin levels to the text of CBOE Rules 12.3 and 12.4. Specifically, the Exchange proposes to make the rule text more ''user-friendly'' by enumerating ''Volatility Indexes'' and identifying specific classes in the appropriate places. The proposed changes are described below.

Proposed Changes to CBOE Rule 12.3(c)(5)

CBOE Rule 12.3(c)(5) sets forth the initial and maintenance margin requirements for short options held in a customer account. As described earlier, when VIX, VXN, VXD, RVX and VXST options were approved for trading, the Exchange was permitted to margin these products as ''broad-based index'' options. The first chart in CBOE Rule 12.3(c)(5) sets forth at paragraph 3 that the initial and/or maintenance margin required for broad-based index options is the greater of: 100% of the current market value of the option plus 15% of the current underlying component value less any out-of-the-money amount or 100% of the current market value of the option plus 10% of the current underlying component value.[5] The ''underlying component value'' for broad-based index options is the product of the current index group value and the applicable index multiplier. The Exchange believes that the 15% initial and/or maintenance margin component should be increased to 20% for 30-day volatility index options and to 40% for 9-day volatility index options (VXST), which were approved to be treated as ''broad-based index'' options for margin purposes. For 9-day volatility index options (VXST), the Exchange also believes that the 10% minimum margin required should be increased to 20%.[6] The Exchange is not proposing to increase the 10% minimum margin required for 30-day volatility index options.

Trading Permit Holder (''TPH'') organizations can, through their own policies and procedures, impose even higher margin requirements should they deem it advisable (*i.e.,* house margin requirements). CBOE Rule 12.10 confirms this ability, in relevant part, as follows: ''[t]he amount of margin prescribed by these Rules is the minimum which must be required initially and subsequently maintained with respect to each account affected thereby; but nothing in these rules shall be construed to prevent a TPH organization from requiring margin in an amount greater than that specified.''

To affect this change, the Exchange proposes to amend existing paragraph 15 to the first chart set forth in CBOE Rule 12.3(c)(5). Paragraph 15 currently sets forth the initial and/or maintenance margin required and minimum margin required for individual stock or ETF-based volatility indexes (whose margin requirements the Exchange is not proposing to change). The Exchange is

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release Nos. 49563 (April 14, 2004), 69 FR 21589 (April 21, 2004) (order approving SR–CBOE–2003–40 to list options on the CBOE Volatility Index (''VIX''), the CBOE Nasdaq 100 Index Volatility Index (''VXN'') and the CBOE Dow Jones Industrial Index (''VXD'')), 55425 (March 8, 2007), 72 FR 12238 (March 15, 2007) (order approving SR–CBOE–2006–73 to list options on the CBOE Russell 2000 Volatility Index (''RVX'')), and 71764 (March 21, 2014), 79 FR 17212 (March 27, 2014) (order approving SR–CBOE–2014–003 to list options on the CBOE Short-Term Volatility Index (''VXST'')).

[4] *See* Securities Exchange Act Release Nos. 62139 (May 19, 2010), 75 FR 29597 (May 26, 2010) (order approving SR–CBOE–2010–018 to list options on the CBOE Gold ETF Volatility Index (''GVZ''), and 64551 (May 26, 2011), 76 FR 32000 (June 2, 2011) (order approving SR–CBOE–2011–026 to list options on the CBOE Equity VIX on Apple (''VXAPL''), the CBOE Equity VIX on Amazon (''VXAZN''), the CBOE Equity VIX on Goldman Sachs (''VXGS''), the CBOE Equity VIX on Google (''VXGOG''), the CBOE Equity VIX on IBM (''VXIBM''), the CBOE Crude Oil ETF Volatility Index (''OVX''), the CBOE Emerging Markets ETF Volatility Index (''VXEEM''), the CBOE China ETF Volatility Index (''VXFXI''), the CBOE Brazil ETF Volatility Index (''VXEWZ''), the CBOE Gold Miners ETF Volatility Index (''VXGDX'') and the CBOE Energy Sector ETF Volatility Index (''VXXLE'')).

[5] There is one difference in the case of a put option. For the 10% minimum only, 10% of the put's exercise price is required rather than 10% the current underlying component value.

[6] Prior to the April 10, 2104 launch of trading in VXST options, the Exchange exercised its authority under CBOE Rules 12.3(h) and 12.10 to impose higher initial and maintenance margin requirements for short, uncovered VXST options. *See* CBOE Regulatory Circular *RG14–040* (Margin Requirements for VXST Options).

proposing to amend paragraph 15 to expand its application to all volatility indexes. Specifically, the Exchange proposes to set forth ''Volatility Indexes'' as the type of option and to set forth below that heading the specific volatility index option classes that are currently listed for trading (*i.e.,* VIX, RVX, VXST, GVZ, OVX, VXEEM and VXEWZ). The Exchange believes that the identification of specific volatility index option classes would make finding the applicable minimum margin levels easier for users of CBOE's Rulebook. The Exchange also believes that identification of specific volatility index option classes would give the Exchange flexibility to change margin levels by volatility index class if the need arises in the future. The Exchange notes that this styling is similar to paragraph 9, ''Foreign Currency Option and Warrants,'' for which specific currencies are identified.

The Exchange also proposes to include a category under ''Volatility Indexes'' labeled, ''Other Volatility Indexes identified in Rules 24.9(a)(3) and 24.9(a)(4).'' [7] The Exchange is proposing to include this general category because the Exchange has received approval to trade options on certain volatility indexes, which are not currently listed for trading. Having a general category for products that have already been approved for trading would enable the Exchange to quickly list these products when launch dates are determined. The Exchange expects that when this happens, CBOE would follow up with a filing to identify any volatility indexes on which options trading has begun.

The Exchange also proposes to amend the definition for ''index value'' for volatility indexes in Row IV (Underlying Component Value) to the first chart in CBOE Rule 12.3(c)(5) in order to be more clear. Specifically, the Exchange proposes to add the descriptive phrase, ''current (spot or cash)'' so that the CBOE Rule 12.3(c)(5) is clear on its face that the current (spot or cash) value for a volatility index is used to calculate margin requirements. The Exchange believes that this descriptive phrase is necessary because the prices of the corresponding futures contract (on the same volatility index) are sometimes used as the ''current index level'' for volatility index options.[8]

The Exchange is also proposing to delete ''Individual Stock or ETF Based'' from the Option or Warrant Issue column from the second chart in CBOE Rule 12.3(c)(5) and replace it with ''Volatility Indexes.'' In addition, the Exchange is proposing to add the descriptive phrase ''(spot or cash)'' before the references to ''current index value'' in the Call and Put rows. These changes conform to the changes described above regarding the new category of ''Volatility Indexes'' and provide clarity as to what is meant by ''current index value'' for volatility index options.

Proposed Changes to CBOE Rule 12.4

As an alternative to the margin requirements set forth in CBOE Rule 12.3, CBOE Rule 12.4 (Portfolio Margin) permits TPH organizations to compute a margin requirement for option positions carried for customers using a portfolio (or risk-based) approach. CBOE proposes to amend CBOE Rule 12.4 to identify ''Volatility Index (30-day implied)'' and ''Volatility Index (9-day implied)'' as portfolio types in the chart set forth in CBOE Rule 12.4 and to specify ''+/−20%'' and ''+/−40%) as the respective applicable up/down market move (high & low valuation points).[9] The Exchange believes that specifying ''Volatility Index (30-day implied)'' and ''Volatility Index (9-day implied)'' as portfolio types would make finding the applicable portfolio margin levels easier for users of CBOE's Rulebook. The Exchange notes that this proposed change would increase the applicable up/down market move (high & low valuation points) for all of its volatility index options. The Exchange is proposing to delete the four footnote 1 references and the text of footnote 1 from the chart set forth in CBOE Rule 12.4. The text of the footnote reads, ''In accordance with sub-paragraph (b)(1)(i)(B) of Rule 15c3–1a under the Securities Exchange Act of 1934.'' The Exchange proposes to delete this sentence because it is no longer deemed necessary to link the margin requirements of CBOE Rule 12.4 to SEC Rule 15c3–1a. While SEC Rule 15c3–1a originally served as a model for CBOE Rule 12.4, a difference between the two, such as the addition of the ''Volatility Index (30-day implied)'' and ''Volatility Index (9-day implied)'' categories to CBOE Rule 12.4, results in inconsistency, and the current footnote may imply there must be consistency.

The Exchange also proposes to amend subparagraph (a)(9) to CBOE Rule 12.4, which sets forth the definition for ''underlying instrument'' as meaning ''a security or security index upon which any listed option, unlisted derivative, security futures product or related instrument is based. The term underlying instrument shall not be deemed to include, futures contracts, options on futures contracts or underlying stock baskets.'' The Exchange proposes to amend that definition by adding the following phrase at the end of the definition, ''except that, for the purpose of calculating theoretical gains and losses for a listed option, unlisted derivative, or security futures product overlying a volatility index pursuant to this Rule, the price of a futures contract referencing the same volatility index may be utilized in lieu of the current (spot or cash) index value.'' The Exchange is proposing the make this change because a more accurate theoretical price for a volatility index option is obtained, and thus a more accurate portfolio margin requirement is derived, by using the price of a futures contract that references the same volatility index. Market participants price volatility index options in view of the price a futures contract that references the same volatility index, rather than using the cash or spot index value.

In addition, the Exchange proposes to amend subparagraph (d)(3)(ii) to CBOE Rule 12.4 to add volatility index options to the list of eligible positions for portfolio margin. Finally, the Exchange proposes to make a technical change earlier in Rule 12.4(a)(5) to delete the unnecessary word ''and'' from the definition of ''option series.''

Ongoing Analysis Regarding Margin Levels

The Exchange will continue to analyze and review the appropriate minimum margin levels for volatility index option. Specifically, the Exchange will continue to review market data in order to determine whether the proposed margin levels should remain or be adjusted. Among other things, CBOE may propose an alternate methodology for determining margin levels or CBOE may subsequently change margin levels after having time to study the impact of the proposed rule change. Any such change would be

[7] CBOE Rules 24.9(a)(3) (European-style index options approved for trading) and 24.9(a)(4) (A.M.-settled index options approved for trading) identify, among other indexes, all other volatility indexes that have approved for options trading but which are not currently listed for trading.

[8] *See e.g.,* CBOE Rules 24.7(iii) and 24.7.03.

[9] Prior to the April 10, 2104 launch of trading in VXST options, the Exchange exercised its authority under CBOE Rule 12.10 to provide that the magnitude of the valuation point range under CBOE Rule 12.4 for VXST options held in a portfolio margin is +/−40% and that the price of the VXST futures contract with a corresponding expiration will be used to calculate theoretical gains and losses for VXST options. *See* CBOE Regulatory Circular *RG14–056* (Margin Requirements for VXST Options).

accomplished by way of a rule filing with the Commission.

2. Statutory Basis

The Exchange believes the proposed rule changes are consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[10] Specifically, the Exchange believes the proposed rule changes are consistent with the Section 6(b)(5) [11] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Exchange believes that increasing the minimum margin requirements for certain volatility index options will protect the integrity of the Exchange's marketplace by setting margin at a level that is appropriate for the given instrument. Also, the Exchange believes that the proposed changes will benefit investors and other market participants by making CBOE's rules more user-friendly in that the applicable margin levels will be easier to locate in CBOE's Rulebook.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed rule change will impose any burden on intramarket competition because it applies to all customers that hold positions in volatility index options. The Exchange does not believe the proposed rule changes will impose any burden on intermarket competition as it will result in margin levels being increased to appropriate levels for volatility index options.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

A. By order approve or disapprove such proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2014–039 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2014–039. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the CBOE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2014–039 and should be submitted on or before June 3, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–10896 Filed 5–12–14; 8:45 am]

BILLING CODE 8011–01–P

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72117; File No. SR–ISE–2014–09]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Designation of a Longer Period for Commission Action on Proposed Rule Change Related to Market Maker Risk Parameters

May 7, 2014.

On March 10, 2014, the International Securities Exchange, LLC (the ''Exchange'' or ''ISE'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend ISE Rules 722 and 804 to mitigate market maker risk by adopting an Exchange-provided risk management functionality. The proposed rule change was published for comment in the **Federal Register** on March 26, 2014.[3] The Commission received no comments on the proposal.

Section 19(b)(2) of the Act [4] provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 71759 (March 20, 2014), 79 FR 16850.

[4] 15 U.S.C. 78s(b)(2).

proposed rule change should be disapproved. The 45th day for this filing is May 10, 2014. The Commission is extending this 45-day time period.

The Commission finds it appropriate to designate a longer period within which to take action on the proposed rule change, so that it has sufficient time to consider this proposed rule change.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[5] designates June 24, 2014, as the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR–ISE–2014–09).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–10898 Filed 5–12–14; 8:45 am]

BILLING CODE 8011–01–P

[5] *Id.*

[6] 17 CFR 200.30–3(a)(31).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #13959 and #13960]

Mississippi Disaster Number MS–00072

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 2.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Mississippi (FEMA–4175–DR), dated 04/30/2014.

Incident: Severe storms, tornadoes, and flooding.

Incident Period: 04/28/2014 through 05/03/2014.

Effective Date: 05/06/2014.

Physical Loan Application Deadline Date: 06/30/2014.

EIDL Loan Application Deadline Date: 01/30/2015.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the Presidential disaster declaration for the State of MISSISSIPPI, dated 04/30/2014 is hereby amended to include the following areas as adversely affected by the disaster:

Primary Counties: (Physical Damage and Economic Injury Loans): Jones; Leake; Montgomery; Simpson; Warren.

Contiguous Counties: (Economic Injury Loans Only):

Louisiana: East Carroll; Madison; Tensas.

Mississippi: Carroll; Claiborne; Covington; Forrest; Grenada; Issaquena; Jefferson Davis; Lawrence; Newton; Webster.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2014–10926 Filed 5–12–14; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #13957 and #13958]

Arkansas Disaster Number AR–00070

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Arkansas (FEMA–4174–DR), dated 04/29/2014.

Incident: Severe Storms, Tornadoes, and Flooding.

Incident Period: 04/27/2014.

Effective Date: 05/05/2014.

Physical Loan Application Deadline Date: 06/30/2014.

EIDL Loan Application Deadline Date: 01/29/2015.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the Presidential disaster declaration for the State of Arkansas, dated 04/29/2014 is hereby amended to include the following areas as adversely affected by the disaster:

Primary Counties: (Physical Damage and Economic Injury Loans): Pulaski; Randolph; White.

Contiguous Counties: (Economic Injury Loans Only):

Arkansas: Clay; Grant; Greene; Independence; Jackson; Jefferson; Lawrence; Prairie; Saline; Sharp; Woodruff.

Missouri: Oregon; Ripley.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2014–10925 Filed 5–12–14; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #13971 and #13972]

Florida Disaster #FL–00100

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of Florida (FEMA–4177–DR), dated 05/06/2014.

Incident: Severe Storms, Tornadoes, Straight-line Winds, and Flooding.

Incident Period: 04/28/2014 through 05/06/2014.

Effective Date: 05/06/2014.

Physical Loan Application Deadline Date: 07/07/2014.

Economic Injury (EIDL) Loan Application Deadline Date: 02/06/2015.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 05/06/2014, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties (Physical Damage and Economic Injury Loans): Escambia, Santa Rosa.

Contiguous Counties (Economic Injury Loans Only):

Florida: Okaloosa.

Alabama: Baldwin, Escambia.

The Interest Rates are:

	Percent
For Physical Damage:	

	Percent
Homeowners With Credit Available Elsewhere	4.375
Homeowners Without Credit Available Elsewhere	2.188
Businesses With Credit Available Elsewhere	6.000
Businesses Without Credit Available Elsewhere	4.000
Non-Profit Organizations With Credit Available Elsewhere	2.625
Non-Profit Organizations Without Credit Available Elsewhere	2.625
For Economic Injury:	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000
Non-Profit Organizations Without Credit Available Elsewhere	2.625

The number assigned to this disaster for physical damage is 13971B and for economic injury is 139720.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator, for Disaster Assistance

[FR Doc. 2014–10923 Filed 5–12–14; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #13959 and #13960]

Mississippi Disaster Number MS–00072

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Mississippi (FEMA–4175–DR), dated 04/30/2014.

Incident: Severe Storms, Tornadoes, and Flooding.

Incident Period: 04/28/2014 through 05/03/2014.

Effective Date: 05/03/2014.

Physical Loan Application Deadline Date: 06/30/2014.

Eidl Loan Application Deadline Date: 01/30/2015.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for the State of Mississippi, dated 04/30/2014 is hereby amended to establish the incident period for this disaster as beginning 04/28/2014 and continuing through 05/03/2014 .

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2014–10924 Filed 5–12–14; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #13969 and #13970]

Kansas Disaster #KS–00078

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of Kansas, dated 05/06/2014.

Incident: Tornado.

Incident Period: 04/27/2014.

Effective Date: 05/06/2014.

Physical Loan Application Deadline Date: 07/07/2014.

Economic Injury (EIDL) Loan Application Deadline Date: 02/06/2015.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Cherokee.

Contiguous Counties:

Kansas: Crawford; Labette.

Missouri: Jasper. Newton.

Oklahoma: Craig; Ottawa.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	4.375
Homeowners Without Credit Available Elsewhere	2.188
Businesses With Credit Available Elsewhere	6.000
Businesses Without Credit Available Elsewhere	4.000
Non-Profit Organizations With Credit Available Elsewhere	2.625
Non-Profit Organizations Without Credit Available Elsewhere	2.625
For Economic Injury:	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000
Non-Profit Organizations Without Credit Available Elsewhere	2.625

The number assigned to this disaster for physical damage is 13969C and for economic injury is 139700.

The States which received an EIDL Declaration # are Kansas, Missouri, Oklahoma.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Dated: May 6, 2014.

Maria Contreras-Sweet,

Administrator.

[FR Doc. 2014–10919 Filed 5–12–14; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 8730]

Culturally Significant Object Imported for Exhibition Determinations: ''Expressionism in Germany and France: From Van Gogh to Kandinsky''

AGENCY: Department of State.

ACTION: Notice, correction.

SUMMARY: On April 14, 2014, notice was published on page 20960 of the **Federal Register** (volume 79, number 71) of determinations made by the Department of State pertaining to the exhibition ''Expressionism in Germany and France: From Van Gogh to Kandinsky.'' The referenced notice is corrected here to include an additional object as part of the exhibition. Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236–3 of August 28, 2000, I hereby determine that the additional object to be included in the exhibition ''Expressionism in Germany and France: From Van Gogh to

Kandinsky,'' imported from abroad for temporary exhibition within the United States, is of cultural significance. The object is imported pursuant to a loan agreement with the foreign owner or custodian. I also determine that the exhibition or display of the additional object at the Los Angeles County Museum of Art, Los Angeles, California, from on or about June 8, 2014, until on or about September 14, 2014, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a description of the additional object, contact Paul W. Manning, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6469). The mailing address is U.S. Department of State, SA–5, L/PD, Fifth Floor (Suite 5H03), Washington, DC 20522–0505.

Dated: May 7, 2014.

Evan Ryan,

Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2014–10940 Filed 5–12–14; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary of Transportation

[Docket No. DOT–OST–2014–0067]

Emergency Order Providing for Local Notification of High-Volume Rail Transport of Bakken Crude Oil

AGENCY: Office of the Secretary of Transportation (OST), DOT.

ACTION: Notice of issuance and availability of Emergency Order.

SUMMARY: On May 7, 2014, the U.S. Secretary of Transportation issued an Emergency Order (EO), that requires that each railroad operating trains containing more than 1,000,000 gallons of Bakken crude oil (approximately 35 tank cars) in a particular state to provide the State Emergency Response Commission notification regarding the expected movement of such trains through the counties in that state.

The full text of the EO can be accessed by going to *www.regulations.gov* and searching for docket number: DOT–OST–2014–0067.

FOR FURTHER INFORMATION CONTACT: For any questions regarding compliance with the EO, please contact the team at the Federal Railroad Administration's Office of Safety at (202) 493–6245. For questions concerning this notice of availability, contact: Brett Jortland, Deputy Assistant General Counsel, U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC, 20590; telephone (202) 366–4723.

Issued in Washington, DC on May 9, 2014.

Kathryn Sinniger,

Assistant General Counsel.

[FR Doc. 2014–11068 Filed 5–9–14; 4:15 pm]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application 14–09–C–00–DCA To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Ronald Reagan Washington National Airport, Arlington, Virginia for Projects at Ronald Reagan Washington National Airport and Washington Dulles International Airport

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Intent to Rule on Application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Ronald Reagan Washington National Airport (DCA) under the provisions of 49 U.S.C. 40117 and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before June 12, 2014.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Washington-Dulles Airports District Office, 23723 Air Freight Lane, Suite 210, Dulles, Virginia 20166.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Andrew T. Rountree, Vice-President for Finance and Chief Financial Officer of the Metropolitan Washington Airports Authority at the following address: Metropolitan Washington Airports Authority, 1 Aviation Circle, Washington, DC 200001–6000. Air carriers and foreign air carriers may submit copies of written comments previously provided to the Metropolitan Washington Airports Authority under section 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Jeffrey Breeden, PFC Program Specialist, Washington-Dulles Airports District Office, 23723 Air Freight Lane, Suite 210, Dulles, Virginia 20166, (703) 661–1363. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at DCA under the provisions of 49 U.S.C. 40117 and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On April 8, 2014, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Metropolitan Washington Airports Authority (MWAA) was substantially complete within the requirements of section 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, not later than July 11, 2014.

The following is a brief overview of the application:

Proposed charge effective date: August 1, 2014.

Proposed charge expiration date: May 1, 2025.

Level of the proposed PFC: $4.50.

Total estimated PFC revenue: $465,263,476.

Brief description of proposed projects:

Washington Dulles International Airport:

Dulles Airport Metrorail Station (including estimated 2000 feet of rail/guideway).

Ronald Reagan Washington National Airport:

Runway 1–19 RSA Improvements, Runway 1–19 Overlay, Runway 15–33 Overlay, Runway 4–22 Overlay, Runway 15–33 RSA Improvements and EA, Runway 4–22 RSA Improvements and EA, Taxiways B/K/P Resurfacing, River Rescue North Boat House, ARFF Station 301, and New Apron at Demolished ARFF Site.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: FAA has determined that MWAA's proposed class of carriers, Nonscheduled/on-demand air carriers, account for less than 1 percent of the total annual enplanements, and are approved for exclusion from the requirement to collect PFCs at DCA.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the offices of the MWAA.

Issued in Dulles, Virginia on April, 2014.

Terry J. Page,

Manager, Washington Airports District Office, Eastern Region, Federal Aviation Administration.

[FR Doc. 2014–10954 Filed 5–12–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2014–0111]

Hours of Service of Drivers: Application of Illumination Fireworks, LLC and ACE Pyro LLC, for Exemption From the 14-Hour Rule During Independence Day Celebrations

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of application for exemption; request for comments.

SUMMARY: FMCSA announces that it has received an application from Illumination Fireworks, LLC and ACE Pyro, LLC (applicants) for a limited exemption from the requirement that drivers of commercial motor vehicles (CMVs) must not drive following the 14th hour after coming on duty. The exemption would apply solely to the operation of drivers of 50 CMVs employed by the applicants in conjunction with staging fireworks shows celebrating Independence Day during the periods June 28–July 8, 2014, and June 28–July 8, 2015, inclusive. During these two periods, the CMV drivers employed by the applicants would be allowed to exclude off-duty and sleeper-berth time of any length from the calculation of the 14 hours. These drivers would not be allowed to drive after accumulating a total of 14 hours of on-duty time, following 10 consecutive hours off duty, and would continue to be subject to the 11-hour driving time limit, and the 60- and 70-hour on-duty limits. The applicants maintain that the terms and conditions of the limited exemption would ensure a level of safety equivalent to, or greater than, the level of safety achieved without the exemption.

DATES: If granted, this exemption would be effective during the periods of June 28, 2014, through July 8, 2014, inclusive, and June 28, 2015, through July 8, 2015, inclusive. The exemption would expire on July 8, 2015 at 11:59 p.m. Comments must be received on or before June 2, 2014.

ADDRESSES: You may submit comments identified by Federal Docket Management System Number FMCSA–2014–0111 by any of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., between 9 a.m. and 5 p.m. E.T., Monday through Friday, except Federal holidays.

Instructions: All submissions must include the Agency name and docket number. For detailed instructions on submitting comments and additional information on the exemption process, see the *Public Participation* heading below. Note that all comments received will be posted without change to *www.regulations.gov*, including any personal information provided. Please also see the *Privacy Act* heading below.

Docket: For access to the docket to read background documents or comments received, go to *www.regulations.gov,* and follow the online instructions for accessing the dockets, or go to the street address listed above.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

Public participation: The Federal eRulemaking Portal is available 24 hours each day, 365 days each year. You can obtain electronic submission and retrieval help and guidelines under the ''help'' section of the Federal eRulemaking Portal Web site. If you want us to notify you that we received your comments, please include a self-addressed, stamped envelope or postcard, or print the acknowledgement page that appears after submitting comments online. Comments received after the comment closing date will be included in the docket and will be considered to the extent practicable.

FOR FURTHER INFORMATION CONTACT: Ms. Pearlie Robinson, FMCSA Driver and Carrier Operations Division; Office of Bus and Truck Standards and Operations; Telephone: 202–366–4325. Email: *MCPSD@dot.gov.*

SUPPLEMENTARY INFORMATION:

Background

The hours-of-service (HOS) rule in 49 CFR 395.3(a)(2) prohibits a property-carrying CMV driver from driving a CMV after the 14th hour after coming on duty following 10 consecutive hours off duty. FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from certain parts of the Federal Motor Carrier Safety Regulations. FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews safety analyses and public comments submitted, and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)) with the reasons for denying or granting the application and, if granted, the name of the person or class of persons receiving the exemption, and the regulatory provision from which the exemption is granted. The notice must also specify the effective period and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

Request for Exemption

Illumination Fireworks, LLC (USDOT 2326703) and ACE Pyro, LLC (USDOT 1352892) (Applicants) are fireworks display companies that employ CMV drivers who hold commercial driver's licenses with hazardous materials endorsements to transport Division 1.3G and 1.4G fireworks in conjunction with the setup of firework shows for Independence Day. The applicants seek an exemption from the 14-hour rule in 49 CFR 395.3(a)(2) so that drivers would be allowed to exclude off-duty and sleeper-berth time of any length from the calculation of the 14 hours. The applicants state that the basis for their request is the existing FMCSA exemption granted to the American Pyrotechnics Association (APA) under Docket No. FMCSA–2007–28043, which exempts comparable fireworks companies from the 14-hour rule.

The applicants further state they are seeking an HOS exemption for the 2014 and 2015 Independence Day periods because compliance with the 14-hour

rule would impose economic hardship on cities, municipalities, and themselves. Complying with the existing regulations means most shows would require two drivers, significantly increasing the cost of the fireworks display.

The applicants assert that without the extra duty-period provided by the exemption, safety would decline because firework drivers would be unable to return to their home base after each show should they have fireworks remaining after the display. They would be forced to park the CMVs carrying Division 1.3G and 1.4G products in areas less secure than the motor carriers' home base. As a condition for holding the exemption, each motor carrier would be required to notify FMCSA within 5 business days of any accident (as defined in 49 CFR 390.5) involving the operation of any CMVs under this exemption. The applicants advise they have never been in an accident. As additional support for the requested exemption, the applicants contend that the nature and duties of APA CMV operators is exactly the same as the CMV operators it employs and they feel strongly that there will not be any decline in safety.

In the exemption request, the applicants assert that the operational demands of this unique industry minimize the risks of CMV crashes. In the last few days before the Independence Day holiday, these drivers transport fireworks over relatively short routes from distribution points to the site of the fireworks display, and normally do so in the early morning when traffic is light. The applicants noted that during the 2013 Independence Day season, the furthest an Illumination Fireworks or Ace Pyro CMV traveled from its home base was 150 miles, which involves a very small amount of driving compared to the distance traveled by companies covered by the APA exemption. At the site, they spend considerable time installing, wiring, and safety-checking the fireworks displays, followed by several hours of duty in the late afternoon and early evening prior to the event. During this time, the drivers are able to rest and nap, thereby reducing or eliminating the fatigue accumulated during the day. Before beginning another duty day, these drivers must take 10 consecutive hours off duty, the same as other CMV drivers.

A copy of the applicants' application for exemption is available for review in the docket for this notice.

Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315(b)(4), FMCSA requests public comment on the applicants' application for an exemption from certain provisions of the driver's HOS rules in 49 CFR part 395. The Agency will consider all comments received by close of business on June 2, 2014. Comments will be available for examination in the docket at the location listed under the **ADDRESSES** section of this notice. The Agency will consider to the extent practicable comments received in the public docket after the closing date of the comment period.

Issued on: May 2, 2014.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2014–10978 Filed 5–12–14; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2012–0040]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 5 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has concluded that granting these exemption renewals will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

DATES: This decision is effective June 6, 2014. Comments must be received on or before June 12, 2014.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) numbers: Docket No. [Docket No. FMCSA–2012–0040], using any of the following methods:

- Federal eRulemaking Portal: Go to *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- Mail: Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- Hand Delivery or Courier: West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- Fax: 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to *http://www.regulations.gov*, including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the Federal Docket Management System (FDMS) published in the **Federal Register** on January 17, 2008 (73 FR 3316).

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, Chief, Medical Programs Division, 202–366–4001, *fmcsamedical@dot.gov*, FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may renew an exemption from the vision requirements in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce, for a two-year period if it finds ''such

exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The procedures for requesting an exemption (including renewals) are set out in 49 CFR part 381.

Exemption Decision

This notice addresses 5 individuals who have requested renewal of their exemptions in accordance with FMCSA procedures. FMCSA has evaluated these 5 applications for renewal on their merits and decided to extend each exemption for a renewable two-year period. They are:

Rudolph Bisschop (MA)
Richard Doroba (IL)
Steven Martin (IL)
Tommy Thomas (CA)
Malcolm J. Tilghman, Sr. (DE)

The exemptions are extended subject to the following conditions: (1) That each individual has a physical examination every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the requirements in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provides a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retains a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application for additional two year periods. In accordance with 49 U.S.C. 31136(e) and 31315, each of the 5 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (77 FR 23799; 77 FR 33558). Each of these 5 applicants has requested renewal of the exemption and has submitted evidence showing that the vision in the better eye continues to meet the requirement specified at 49 CFR 391.41(b)(10) and that the vision impairment is stable. In addition, a review of each record of safety while driving with the respective vision deficiencies over the past two years indicates each applicant continues to meet the vision exemption requirements.

These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

Request for Comments

FMCSA will review comments received at any time concerning a particular driver's safety record and determine if the continuation of the exemption is consistent with the requirements at 49 U.S.C. 31136(e) and 31315. However, FMCSA requests that interested parties with specific data concerning the safety records of these drivers submit comments by June 12, 2014.

FMCSA believes that the requirements for a renewal of an exemption under 49 U.S.C. 31136(e) and 31315 can be satisfied by initially granting the renewal and then requesting and evaluating, if needed, subsequent comments submitted by interested parties. As indicated above, the Agency previously published notices of final disposition announcing its decision to exempt these 5 individuals from the vision requirement in 49 CFR 391.41(b)(10). The final decision to grant an exemption to each of these individuals was made on the merits of each case and made only after careful consideration of the comments received to its notices of applications. The notices of applications stated in detail the qualifications, experience, and medical condition of each applicant for an exemption from the vision requirements. That information is available by consulting the above cited **Federal Register** publications.

Interested parties or organizations possessing information that would otherwise show that any, or all, of these drivers are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315, FMCSA will take immediate steps to revoke the exemption of a driver.

Submitting Comments

You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket numbers FMCSA–2012–0040 and click the search button. When the new screen appears, click on the blue ''Comment Now!'' button on the right hand side of the page. On the new page, enter information required including the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

We will consider all comments and material received during the comment period and may change this proposed rule based on your comments. FMCSA may issue a final rule at any time after the close of the comment period.

Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble, To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–2012–0040 and click ''Search.'' Next, click ''Open Docket Folder'' and you will find all documents and comments related to the proposed rulemaking.

Issued on: April 28, 2014.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2014–10964 Filed 5–12–14; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2013–0444]

Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of applications for exemption, request for comments.

SUMMARY: FMCSA announces receipt of applications from 13 individuals for an exemption from the prohibition against persons with a clinical diagnosis of epilepsy or any other condition which is likely to cause a loss of consciousness or any loss of ability to operate a commercial motor vehicle (CMV) from operating CMVs in interstate commerce. The regulation and the associated advisory criteria published in the Code of Federal Regulations as the ''Instructions for Performing and Recording Physical Examinations'' have resulted in numerous drivers being prohibited from operating CMVs in interstate commerce based on the fact that they have had one or more seizures and are taking anti-seizure medication, rather than an individual analysis of their circumstances by a qualified medical examiner. If granted, the exemptions would enable these individuals who have had one or more seizures and are taking anti-seizure medication to operate CMVs for 2 years in interstate commerce.

DATES: Comments must be received on or before June 12, 2014.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket ID FMCSA–2013–0444 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Each submission must include the Agency name and the docket ID for this Notice. Note that DOT posts all comments received without change to *http://www.regulations.gov*, including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on January 17, 2008 (73 FR 3316; January 17, 2008). This information is also available at *http://Docketinfo.dot.gov*.

FOR FURTHER INFORMATION CONTACT: Elaine Papp, Chief, Medical Programs Division, (202) 366–4001, or via email at *fmcsamedical@dot.gov*, or by letter FMCSA, Room W64–113, Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31315 and 31136(e), FMCSA may grant an exemption for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statutes also allow the Agency to renew exemptions at the end of the 2-year period. The 13 individuals listed in this notice have recently requested an exemption from the epilepsy prohibition in 49 CFR 391.41(b)(8), which applies to drivers who operate CMVs as defined in 49 CFR 390.5, in interstate commerce. Section 391.41(b)(8) states that a person is physically qualified to drive a commercial motor vehicle if that person has no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause the loss of consciousness or any loss of ability to control a CMV.

FMCSA provides medical advisory criteria for use by medical examiners in determining whether drivers with certain medical conditions should be certified to operate CMVs in intrastate commerce. The advisory criteria indicate that if an individual has had a sudden episode of a non-epileptic seizure or loss of consciousness of unknown cause which did not require anti-seizure medication, the decision whether that person's condition is likely to cause the loss of consciousness or loss of ability to control a CMV should be made on an individual basis by the medical examiner in consultation with the treating physician. Before certification is considered, it is suggested that a 6-month waiting period elapse from the time of the episode. Following the waiting period, it is suggested that the individual have a complete neurological examination. If the results of the examination are negative and anti-seizure medication is not required, then the driver may be qualified.

In those individual cases where a driver had a seizure or an episode of loss of consciousness that resulted from a known medical condition (e.g., drug reaction, high temperature, acute infectious disease, dehydration, or acute metabolic disturbance), certification should be deferred until the driver has fully recovered from that condition, has no existing residual complications, and is not taking anti-seizure medication. Drivers who have a history of epilepsy/seizures, off anti-seizure medication and seizure-free for 10 years, may be qualified to operate a CMV in interstate commerce. Interstate drivers with a history of a single unprovoked seizure may be qualified to drive a CMV in interstate commerce if seizure-free and off anti-seizure medication for a 5-year period or more.

Submitting Comments

You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission. To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number ''FMCSA–2013–0444'' and click the search button. When the new screen appears, click on the blue ''Comment Now!'' button on the right hand side of

the page. On the new page, enter information required including the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change this proposed rule based on your comments. FMCSA may issue a final rule at any time after the close of the comment period.

Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble. To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number ''FMCSA–2013–0444'' and click ''Search.'' Next, click ''Open Docket Folder'' and you will find all documents and comments related to the proposed rulemaking.

Summary of Applications

Travis Arend

Mr. Arend is a 41 year-old driver in Virginia. He has a history of seizure and has remained seizure free for 8 years. He does not take anti-seizure medication. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Arend receiving an exemption.

Heath Crowe

Mr. Crowe is a 36 year-old driver in Louisiana. He has a history of epilepsy and has remained seizure free since 1998. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Crowe receiving an exemption.

Richard Degnan

Mr. Degnan is a 46 year-old driver in Arizona. He has a history of seizure disorder and has remained seizure free since 2004. He takes anti-seizure medication with the dosage and frequency remaining the same for over 2 years. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Degnan receiving an exemption.

Peter Della Rocco

Mr. Della Rocco is a 47 year-old class B CDL holder in Pennsylvania. He has a history of seizure and has remained seizure free since 1992. He takes anti-seizure medication with the dosage and frequency remaining the same for over 3 years. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Della Rocco receiving an exemption.

Mark Dodson

Mr. Dodson is a 44 year-old class A CDL holder in North Carolina. He has a history of seizures and has remained seizure free since 2011. He takes anti-seizure medication with the dosage and frequency remaining the same for over 2 years. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Dodson receiving an exemption.

Edward Jacobs

Mr. Jacobs is a 45 year-old driver in Virginia. He has a history of seizure disorder and has remained seizure free since 2002. He takes anti-seizure medication with the dosage and frequency remaining the same for over 2 years. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Jacobs receiving an exemption.

Domenick Panfile

Mr. Panfile is a 55 year-old class B CDL holder in New Jersey. He has a history of seizures and has remained seizure free since 1982. He takes anti-seizure medication with the dosage and frequency remaining the same for over 20 years. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Panfile receiving an exemption.

Scott Reaves

Mr. Reaves is a 50 year-old driver in Texas. He has a history of seizure disorder and has remained seizure free since 2002. He takes anti-seizure medication with the dosage and frequency remaining the same for over 10 years. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Reaves receiving an exemption.

Paul Seekins

Mr. Seekins is a 70 year-old class A CDL holder in New York. He has a history of seizure disorder and has remained seizure free since 2013. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. If granted the exemption, he would like to drive a CMV. His physician states that his is supportive of Mr. Seekins receiving an exemption.

Milton Tatham

Mr. Tatham is a 55 year-old class A CDL holder in Nevada. He has a history of seizure disorder and has remained seizure free since 1994. He takes anti-seizure medication with the dosage and frequency remaining the same for over 2 years. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Tatham receiving an exemption.

Thomas Tincher

Mr. Tincher is a 48 year-old driver in North Carolina. He has a history of seizure and has remained seizure free for over 4 years. He takes anti-seizure medication with the dosage and frequency remaining the same for over 3 years. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Tincher receiving an exemption.

Duane Troff

Mr. Troff is a 52 year-old class A CDL holder in Minnesota. He has a history of seizure and has remained seizure free for 7 years. He takes anti-seizure medication with the dosage and frequency remaining the same since that time. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Troff receiving an exemption.

Earnest Williams

Mr. Williams is a 25 year-old driver in California. He has a history of seizure disorder and has remained seizure free for 13 years. He does not take anti-seizure medication since 2010. If granted the exemption, he would like to drive a CMV. His physician states he is supportive of Mr. Williams receiving an exemption.

Request for Comments

In accordance with 49 U.S.C. 31315 and 31136(e), FMCSA requests public comment from all interested persons on the exemption applications described in this notice. We will consider all comments received before the close of business on the closing date indicated earlier in the notice.

Issued on: April 28, 2014.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2014–10982 Filed 5–12–14; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

[Docket No. FRA–2014–0011–N–10]

Federal Railroad Administration

Agency Request for Emergency Processing of Collection of Information by the Office of Management and Budget

AGENCY: Federal Railroad Administration (FRA), United States Department of Transportation (USDOT).

ACTION: Notice.

SUMMARY: FRA hereby gives notice that it is submitting the following Information Collection request (ICR) to the Office of Management and Budget (OMB) for emergency processing under the Paperwork Reduction Act of 1995. FRA requests that OMB authorize the collection of information identified below on May 13, 2014, for a period of 180 days.

FOR FURTHER INFORMATION CONTACT: A copy of this individual ICR, with applicable supporting documentation, may be obtained by calling FRA's Clearance Officers: Robert Brogan (tel. (202) 493–6292) or Kimberly Toone (tel. (202) 493–6132); these numbers are not toll-free), or by contacting Mr. Brogan via facsimile at (202) 493–6216 or Ms. Toone via facsimile at (202) 493–6497, or via email by contacting Mr. Brogan at *Robert.Brogan@dot.gov;* or by contacting Ms. Toone at *Kim.Toone@dot.gov.* Comments and questions about the ICR identified below should be directed to Docket No. DOT–OST–2014–0067 at the following site: *http://regulations.gov.*

Title: DOT Secretary's Emergency Order Docket No. DOT–OST–2014–0067.

Reporting Burden:

Emergency Order Item No.	Respondent universe	Total annual responses	Average time per response	Total annual burden hours
(1) RR Notification to SERCs	47 railroads	120 written notifications.	30 hours	3,600 hours.
(2) Updated RR Notification to SERCs	47 railroads	25 updated written notifications.	4 hours	100 hours.
(3) Notification Copies to FRA	47 railroads	10 notification copies	60 minutes	10 hours.
(4) Requests to RRs by SERCs for Information from Local Emergency Response Agencies Regarding the Volume and Frequency of Train Traffic Implicated by this Emergency Order within that Agency's Jurisdiction and RR Responses.	47 railroads	30 informational assistance requests + 30 informational responses.	30 minutes	60 hours.
(5) Petitions to the Secretary/FRA Administrator for Relief from This Emergency Order.	47 railroads	4 relief petitions	2 hours	8 hours.

Form Number(s): N/A.

Respondent Universe: 47 Railroad Carriers; 50 State Emergency Response Commissions (SERCs).

Frequency of Submission: One-time; on occasion.

Total Responses: 219.

Estimated Total Annual Burden: 3,778 hours.

Status: Emergency Review.

Description: On May 7, 2014, the Secretary of Transportation issued Emergency Order Docket No. DOT–OST–2014–0067 (EO), requiring affected railroad carriers to provide certain information to the State Emergency Response Commissions (SERCs) for each State in which their trains carrying 1 million gallons or more of Bakken crude oil travel. The EO is available through the Department's public docket system at *www.regulations.gov,* under Docket No. DOT–OST–2014–0067. The EO is the Department's direct and proactive response to a recent series of train accidents involving the transportation of petroleum crude oil, a hazardous material the transportation of which is regulated by the Department. The most recent accident occurred on April 30, 2014, when a train transporting petroleum crude oil derailed in Lynchburg, Virginia and released approximately 30,000 gallons of its contents into the James River. Further, the EO explains that, with the rising demand for rail transportation of petroleum crude oil throughout the United States, the risk of rail incidents has increased commensurate with the increase in the volume of the material shipped and that there have been several significant derailments in both the U.S. and Canada over the last several months causing deaths and property and environmental damage that involved petroleum crude oil. DOT emergency orders are rare and the EO itself describes the most recent accidents and circumstances leading the agency to issue the EO. The collection of information included under this EO is aimed at ensuring that railroads that transport in a single train a large quantity of petroleum crude oil (1 million gallons or more), particularly crude oil from the Bakken shale formation in the Williston Basin, provide certain information to the relevant SERCs in each State in which the railroad operates such trains. Ensuring that railroads provide this information to SERCs is critical to ensuring that local and State emergency responders are aware of the large quantities of crude oil that are being transported through their jurisdictions and are prepared to respond to accidents involving such trains should they occur.

As provided under 5 CFR 1320.13, *Emergency Processing,* DOT is requesting emergency processing for this new collection of information as specified in the Paperwork Reduction Act of 1995 and its implementing regulations. DOT cannot reasonably comply with normal clearance procedures because the use of normal clearance procedures is reasonably likely to disrupt the collection of information. The EO takes effect immediately upon issuance, although the railroads have 30 days to provide the required information to the SERCs. Under the EO, railroads must immediately initiate steps to implement the Order, and if notification is not made to a SERC within 30 days of the EO's issuance, a railroad is prohibited from transporting Bakken crude oil in large quantities single trains in any state until such notification is made. Ensuring States and emergency responders are aware of the large quantities of Bakken crude oil moving through their jurisdictions and having the opportunity to appropriately prepare to respond to any potential incidents involving these trains is critical to ensuring safety and mitigating any impacts if a rail accident/incident does

occur. DOT finds this collection of information is essential to the mission of the agency, and it is, therefore, requesting OMB approval of this collection of information as soon as possible.

Upon OMB approval of its emergency clearance request, DOT will follow the normal clearance procedures for the information collection associated with the EO.

Pursuant to 44 U.S.C. 3507(a) and 5 CFR 320.5(b), 1320.8(b)(3)(vi), FRA informs all interested parties that it may not conduct or sponsor, and a respondent is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Authority: 44 U.S.C. 3501–3520.

Issued in Washington, DC on May 8, 2014.

Erin McCarthy,

Acting Chief Financial Officer.

[FR Doc. 2014–10991 Filed 5–12–14; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Safety Advisory 2014–01]

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2014–0049; Notice No. 14–07]

Recommendations for Tank Cars Used for the Transportation of Petroleum Crude Oil by Rail

AGENCY: Federal Railroad Administration (FRA) and Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT).

ACTION: Notice of Safety Advisory.

SUMMARY: This safety advisory provides notice to all persons who offer for transportation, or transport, in tank cars by rail in commerce to, from or within the United States, a bulk quantity of UN 1267, petroleum crude oil, Class 3, that originates in or is sourced from the Bakken formation in the Williston Basin (Bakken crude oil). The purpose of this advisory is to encourage offerors and rail carriers to take additional precautionary measures to enhance the safe shipment of bulk quantities of Bakken crude oil by rail throughout the United States. Specifically, in light of recent accidents involving the shipment of Bakken crude oil by rail, the Federal Railroad Administration (FRA) and the Pipeline and Hazardous Materials Administration (PHMSA) urge offerors and carriers of Bakken crude oil by rail tank car to select and use the railroad tank car designs with the highest level of integrity reasonably available within their fleet for shipment of these hazardous materials by rail in interstate commerce. Further, FRA and PHMSA advise offerors and carriers of Bakken crude oil to avoid the use of older, legacy DOT Specification 111 or CTC 111 tank cars for the shipment of such oil to the extent reasonably practicable.

FOR FURTHER INFORMATION CONTACT: Karl Alexy, Staff Director, FRA Hazardous Materials Division, 1200 New Jersey Ave. SE., Washington, DC 20590–0001, telephone (202) 493–6245 or Charles Betts, Director, Standards and Rulemaking Division, telephone (202) 366–8553, Pipeline and Hazardous Materials Safety Administration.

SUPPLEMENTARY INFORMATION: Changes in railroad operations over the last several years, including increased rail traffic, higher in-train forces due to the transportation of hazardous materials tank cars at higher gross rail loads, and the likelihood of individual tank cars accumulating more miles annually, have resulted in tank car design changes to accommodate these increased stresses and to significantly reduce the chances of a catastrophic failure (i.e., the sudden and total failure of the tank resulting in a release of the tank's contents). Design changes include new tank car steel and improvements of structural features. Older ''legacy'' tank cars, however, without more modern construction and design enhancements, continue to be used to transport hazardous materials, including Bakken crude oil. Petroleum crude oil (including petroleum crude oil from the Bakken) is a hazardous material subject to regulation under 49 CFR 172.101 of the Hazardous Materials Regulations (HMR; 49 CFR parts 171 to 180).

While the overall number of railroad accidents and derailments has actually decreased over the past several years, the number and type of railroad accidents involving Bakken crude oil that have occurred during the last year has increased, and the quantity of petroleum crude oil released as a result of those accidents is higher than past precedents. Due to the volume of Bakken crude oil currently being offered for rail transportation resulting in the demonstrated recent propensity for rail accidents involving trains transporting Bakken crude oil to occur, and the subsequent releases of large quantities of such oil, FRA and PHMSA recommend that offerors and carriers of Bakken crude oil select and use the tank car designs with the highest level of integrity reasonably available within their fleet.

The United States has experienced a rapid growth in the quantity of petroleum crude oil being shipped by rail in recent years. The growth has largely been sparked by developments in North Dakota, where the Bakken formation in the Williston Basin (the Bakken) has become a major source of petroleum crude oil in the United States. Much of the Bakken crude oil is shipped via rail to refineries located near the U.S. Gulf Coast or to pipeline connections, most notably to connections located in Oklahoma.[1]

Shipping hazardous materials is inherently dangerous. Transporting petroleum crude oil can be problematic if released into the environment because it is flammable. This risk of ignition is compounded in the context of rail transportation because petroleum crude oil is commonly shipped in unit trains that consist of over 100 loaded tank cars. With the rising demand for rail carriage of Bakken crude oil[2] throughout the United States, the risk of rail incidents increases.

In light of the above discussion, and in an effort to maintain the safety of the Nation's rail system and the communities through which trains transporting Bakken crude oil travels, FRA and PHMSA recommend that offerors and carriers of Bakken crude oil by rail select and only use the tank car designs with the highest level of integrity reasonably available within their fleet. The features that offerors should consider in assessing tank car integrity include, without limitation, tank shell jacket systems, head shields, and top fittings protection. Further, FRA and PHMSA advise offerors and carriers of Bakken crude oil to avoid the use of older, legacy DOT Specification 111 or CTC 111 tank cars for the shipment of such oil to the extent reasonably practicable.

[1] *See* Association of American Railroads' (AAR) December 2013 paper ''Moving Crude Oil by Rail'', available online at: *https://www.aar.org/keyissues/Documents/Background-Papers/Crude-oil-by-rail.pdf.*

[2] In 2011 there were 65,751 originations of tank car loads of crude oil. In 2012, there were 233,811 originations. AAR, *Moving Crude Petroleum by Rail, https://www.aar.org/keyissues/Documents/Background-Papers/Moving%20Crude%20Petroleum%20by%20Rail%202012-12-10.pdf* (December 2012).

Issued in Washington, DC on May 7, 2014.

Robert C. Lauby,

Associate Administrator for Railroad Safety and Chief Safety Officer, Federal Railroad Administration.

Magdy El-Sibaie,

Associate Administrator for Hazardous Materials Safety, Pipeline and Hazardous Materials Safety Administration.

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DEPARTMENT OF THE TREASURY

Community Development Financial Institutions Fund

Funding Opportunity Title: Notice of Guarantee Availability (NOGA) Inviting Qualified Issuer Applications and Guarantee Applications for the Community Development Financial Institutions (CDFI) Bond Guarantee Program

Announcement Type: Announcement of opportunity to submit Qualified Issuer Applications and Guarantee Applications.

Catalog of Federal Domestic Assistance (CFDA) Number: 21.011.

DATES: Qualified Issuer Applications and Guarantee Applications may be submitted to the CDFI Fund starting on the date of publication of this NOGA. Applications will be reviewed by the CDFI Fund on an ongoing basis, in the order in which they are received or by such other criteria that the CDFI Fund may establish and publish, in its sole discretion. In order to be considered for the issuance of a Guarantee under FY 2014 program authority, Qualified Issuer Applications must be submitted by June 23, 2014 and Guarantee Applications must be submitted by June 30, 2014. Qualified Issuer Applications and Guarantee Applications received in FY 2013 and that were neither withdrawn nor declined in FY 2013 will be considered under FY 2014 authority.

Executive Summary: This NOGA is published in connection with the CDFI Bond Guarantee Program, administered by the Community Development Financial Institutions Fund (CDFI Fund), the U.S. Department of the Treasury (Treasury). The purpose of this NOGA is to notify the public that: (i) Parties interested in being approved as Qualified Issuers may submit Qualified Issuer Applications and (ii) Qualified Issuers may submit Guarantee Applications to be approved for a Guarantee under the CDFI Bond Guarantee Program. This NOGA also explains application submission and evaluation requirements and processes, agency contacts, and information on CDFI Bond Guarantee Program outreach.

I. Guarantee Opportunity Description

A. *Authority; Program summary; Additional reference documents; Definitions*

1. *Authority.* The CDFI Bond Guarantee Program is authorized by the Small Business Jobs Act of 2010 (Pub. L. 111–240; 12 U.S.C. 4713a) (the Act). Section 1134 of the Act amended the Riegle Community Development and Regulatory Improvement Act of 1994 (12 U.S.C. 4701, *et seq.*) to provide authority to the Secretary of the Treasury to establish and administer the CDFI Bond Guarantee Program.

2. *Program summary.* The purpose of the CDFI Bond Guarantee Program is to support CDFI lending by providing Guarantees for Bonds issued for Eligible Community or Economic Development Purposes, as authorized by section 1134 and 1703 of the Act. The Secretary, as the Guarantor of the Bonds, will provide a 100 percent Guarantee for the repayment of the Verifiable Principal, Interest, and Call Premium of Bonds issued by Qualified Issuers. As the CDFI Bond Guarantee Program has been structured, a Qualified Issuer, approved by the CDFI Fund, will issue Bonds that will be purchased by the Federal Financing Bank. The Qualified Issuer will use Bond Proceeds to provide Bond Loans to Eligible CDFIs. The Eligible CDFIs will use Bond Loan proceeds for Eligible Community and Economic Development Purposes, including providing Secondary Loans to Secondary Borrowers.

In FY 2014, the Secretary may guarantee Bond Issues having a minimum Guarantee of $100 million each up to an aggregate total of $750 million. The maximum maturity of the Bonds will be 30 years; the Bonds will be taxable. The Bonds will support CDFI lending in Investment Areas by providing a source of low-cost, long-term capital to CDFIs.

3. *Guarantee availability.* Pursuant to this NOGA, the Guarantor may provide Guarantees requested by Qualified Issuers in FY 2014, including applications that were submitted, but not withdrawn or declined, in FY 2013. Guarantees will be provided in the order in which Guarantee Applications are approved. The review and evaluation of Guarantee Applications will be initiated in chronological order by date of receipt; however, Guarantee Applications that are incomplete or require the CDFI Fund to request additional or clarifying information may delay the ability of the CDFI Fund to move the Guarantee Application to the next phase of review. Submitting an incomplete Guarantee Application earlier than other applicants does not ensure first approval.

4. *Additional reference documents.* In addition to this NOGA, the CDFI Fund encourages interested parties and applicants to review the following documents, which will be posted on the CDFI Bond Guarantee Program page of the CDFI Fund's Web site at *http://www.cdfifund.gov.*

(a) *CDFI Bond Guarantee Program Regulations.* The interim rule that governs the CDFI Bond Guarantee Program was published on February 5, 2013 (78 *FR* 8296; 12 CFR part 1808) (the Regulations) and provides the regulatory requirements and parameters for CDFI Bond Guarantee Program implementation and administration including general provisions, eligibility, eligible activities, applications for Guarantee and Qualified Issuer, evaluation and selection, terms and conditions of the Guarantee, Bonds, Bond Loans, and Secondary Loans. In addition to the Regulations, the CDFI Fund has provided a document that summarizes certain program terms and conditions, which may be found on the CDFI Fund's Web site.

(b) *Application materials.* Details regarding Qualified Issuer Application and Guarantee Application content requirements are found in this NOGA and the respective applications materials.

(c) *Program documentation.* Interested parties should review certain CDFI Bond Guarantee Program template documents, which will be used in connection with each Guarantee and will be posted on the CDFI Fund's Web site for review. Such documents include, among others:

(i) The Agreement to Guarantee, which describes the roles and responsibilities of the Qualified Issuer, will be signed by the Qualified Issuer and the Guarantor and will include term sheets as appendices that will be signed by each individual Eligible CDFI;

(ii) The Bond Trust Indenture, which describes responsibilities of the Master Servicer/Trustee in overseeing the servicing of the Bonds and will be entered into by the Qualified Issuer and the Master Servicer/Trustee (selected by the CDFI Fund);

(iii) The Bond Loan Agreement, which describes the terms and conditions of Bond Loans and will be entered into by the Qualified Issuer and each Eligible CDFI that receives a Bond Loan;

(iv) The Bond Purchase Agreement, which describes the terms and conditions under which the Bond

Purchaser will purchase the Bonds issued by the Qualified Issuer and will be signed by the Bond Purchaser, the Qualified Issuer, the Guarantor and the CDFI Fund. This document also includes the provisions for prepayment privileges and the calculation for the prepayment discount or premium; and

(v) The Future Advance Promissory Bond, which will be signed by the Qualified Issuer as its promise to repay the Bond Purchaser. This document also defines prepayment privileges and includes the instructions for prepayment of the Bond.

The form documents may be updated periodically, as needed, and will be tailored, as appropriate, to the particular terms and conditions of a Guarantee. Accordingly, the template documents should not be relied on, but instead are provided for illustrative purposes.

(d) *Frequently Asked Questions.* The CDFI Fund will periodically post on its Web site responses to questions that are asked by parties interested in the CDFI Bond Guarantee Program.

5. *Definitions.* Capitalized terms used herein and not defined elsewhere are defined in section 1808.102 of the Regulations.

B. *Coordination with broader community development strategies.* Consistent with Federal efforts to promote community revitalization, it is important for communities to develop a comprehensive neighborhood revitalization strategy that addresses neighborhood assets essential to transforming distressed neighborhoods into healthy and vibrant communities. Neighborhood transformation can best occur when comprehensive neighborhood revitalization plans embrace the coordinated use of programs and resources that address the interrelated needs within a community. Although not a requirement for participating in the CDFI Bond Guarantee Program, the Federal Government believes that a CDFI will be most successful when it is a part of, and contributes to, an area's broader neighborhood revitalization strategy.

C. *Designated Bonding Authority.* The CDFI Fund has determined that, for purposes of this NOGA, it will not solicit applications from entities seeking to serve as a Qualified Issuer in the role of the Designated Bonding Authority, pursuant to 12 CFR 1808.201, in FY 2014.

D. *Noncompetitive process.* The CDFI Bond Guarantee Program is a non-competitive program through which Qualified Issuer Applications and Guarantee Applications will undergo a merit-based evaluation (i.e., applications will not be scored against each other in a competitive manner in which higher ranked applicants are favored over lower ranked applicants). Applications will be reviewed by the CDFI Fund on an ongoing basis, and Guarantees will be provided in the order in which Guarantee Applications are approved or by such other criteria that the CDFI Fund may establish and publish, in its sole discretion. However, pursuant to the Regulations at 12 CFR 1808.504(c), the Guarantor may limit the number of Guarantees made per year or the number of Guarantee Applications accepted to ensure that a sufficient examination of Guarantee Applications is conducted.

E. *Relationship to other CDFI Fund programs.*

1. Award funds received under any other CDFI Fund Program cannot be used by any participant, including Qualified Issuers, Eligible CDFIs, and Secondary Borrowers, to pay principal, interest, fees, administrative costs, or issuance costs (including Bond Issuance Fees) related to the CDFI Bond Guarantee Program, or to fund the Risk-Share Pool for a Bond Issue.

2. Bond Proceeds may only be combined with New Markets Tax Credits (NMTC) derived equity (i.e., leveraged loan) to make a Qualified Equity Investment (QEI) in a Community Development Entity or to refinance a Qualified Low-Income Community Investment (QLICI) at the beginning of the seven (7) year NMTC compliance period under the following circumstances. If an Eligible CDFI uses Bond Loan proceeds to finance a leveraged loan in a NMTC transaction, the Eligible CDFI must provide either/both: (1) Additional collateral in the form of Other Pledged Loans or Cash Collateral; (2) a payment guarantee or similar credit enhancement; and/or (3) other assurances that are approved by Treasury. The additional collateral, credit enhancement, and/or assurances must remain in force during the entire seven-year NMTC compliance period and comply with the Secondary Loan Requirements. These requirements shall be part of the draft term sheet and shall be included in the final Bond Loan covenants.

3. Bond Proceeds may not be used to refinance a leveraged loan during the seven-year NMTC compliance period. Bond Proceeds may be used to refinance a QLICI after the seven-year NMTC compliance period has ended so long as all other programmatic requirements are met.

F. *Relationship and interplay with other Federal programs and Federal funding.*

1. Eligible CDFIs may not use Bond Loans to refinance existing Federal debt or to service debt from other Federal credit programs.

2. The CDFI Bond Guarantee Program underwriting process will include a comprehensive review of the Eligible CDFI's concentration of sources of funds available for debt service, including the concentration of sources from other Federal programs and level of reliance on said sources, to determine the Eligible CDFI's ability to service the additional debt.

G. *Contemporaneous application submission.* Qualified Issuer Applications may be submitted contemporaneously with Guarantee Applications; however, the CDFI Fund will review an entity's Qualified Issuer Application and make its Qualified Issuer determination prior to approving a Guarantee Application.

H. *Other restrictions on use of funds.* Bond Proceeds may not be used to finance or refinance any trade or business consisting of the operation of any private or commercial golf course, country club, massage parlor, hot tub facility, suntan facility, racetrack or other facility used for gambling, or any store the principal business of which is the sale of alcoholic beverages for consumption off-premises. Bond Proceeds may not be used to finance or refinance tax-exempt obligations or finance or refinance projects that are also financed by tax-exempt obligations if: (a) Such financing or refinancing results in the direct or indirect subordination of the Bond Loan or Bond Issue to the tax-exempt obligations or (b) such financing or refinancing results in a corresponding guarantee of the tax-exempt obligation. Qualified Issuers and Eligible CDFIs must ensure that any financing made in conjunction with tax-exempt obligations comply with CDFI Bond Guarantee Program Regulations.

II. General Application Information

The following requirements apply to all Qualified Issuer Applications and Guarantee Applications submitted under this NOGA, as well as any Qualified Issuer Applications and Guarantee Applications submitted under the FY 2013 NOGA that were neither withdrawn nor declined in FY 2013.

A. CDFI Certification Requirements

1. By statute, the Qualified Issuer applicant must be a Certified CDFI or an entity designated by a Certified CDFI to issue Bonds on its behalf. However, for the purposes of reviewing Qualified Issuer and Guarantee Applications, a Qualified Issuer must receive a

designation by a separate Certified CDFI to issue Bonds on its behalf. Eligible CDFI applicants must be Certified CDFIs as of the date of submission of the Guarantee Application. If approved for a Guarantee, each Eligible CDFI must be a Certified CDFI as of the Bond Issue Date and must maintain its respective CDFI certification throughout the term of the corresponding Bond.

2. A Certified CDFI is an entity that has been certified by the CDFI Fund as meeting the CDFI certification requirements set forth in 12 CFR 1805.201. For purposes of this NOGA, a Certified CDFI is an entity that has received official notification from the CDFI Fund that it meets all CDFI certification requirements as of the date of submission of the associated Qualified Issuer Application and/or Guarantee Application, which certification has not expired, and has not been notified by the CDFI Fund that its certification has been terminated.

3. The CDFI Fund reserves the right to re-examine the CDFI certification status of a Qualified Issuer applicant or an entity that wishes to be an Eligible CDFI, and to require that such applicant or entity submit a new CDFI certification application in advance of its certification expiration date, if applicable.

B. Application Submission

1. *Electronic submission.* All Qualified Issuer Applications and Guarantee Applications must be submitted electronically through myCDFIFund, the CDFI Fund's internet-based interface. Applications sent by mail, fax, or other form will not be permitted, except in circumstances that the CDFI Fund, in its sole discretion, deems acceptable. Please note that Applications will not be accepted through Grants.gov.

2. *Applicant identifier numbers.* Please note that, pursuant to OMB guidance (68 FR 38402), each Qualified Issuer applicant and Guarantee applicant must provide, as part of its Application, its Dun and Bradstreet Data Universal Numbering System (DUNS) number, as well as DUNS numbers for its proposed Program Administrator, its proposed Servicer, and each Certified CDFI that is included in the Qualified Issuer Application and Guarantee Application. In addition, each Application must include a valid and current Employer Identification Number (EIN), with a letter or other documentation from the IRS confirming the Qualified Issuer applicant's EIN, as well as EINs for its proposed Program Administrator, its proposed Servicer, and each Certified CDFIs that is included in any Application. An Application that does not include such DUNS numbers, EINs and documentation is incomplete and will be rejected by the CDFI Fund. Applicants should allow sufficient time for the IRS and/or Dun and Bradstreet to respond to inquiries and/or requests for the required identification numbers.

3. *System for Award Management (SAM).* On July 30, 2012, the Central Contractor Registration (CCR) transitioned to SAM. All data in the registrant database has been migrated from CCR into SAM. Any entity that needs to create a new account or update its current registration must register for a user account in SAM. Registering with SAM is required for each Qualified Issuer applicant, its proposed Program Administrator, its proposed Servicer, and each Certified CDFI that is included in any Application. The CDFI Fund will not consider any Applications that do not meet the requirement that each entity must be properly registered before the date of Application submission. The CDFI Fund does not manage the SAM registration process, so entities must contact SAM directly for issues related to registration. The CDFI Fund strongly encourages all applicants to ensure that their SAM registration (and the SAM registration for their Program Administrators, Servicers and each Certified CDFI that is included in the Qualified Issuer Application and Guarantee Application) is updated and that their accounts have not expired. For information regarding SAM registration, please visit *https://www.sam.gov/sam*.

4. *myCDFIFund accounts.* Each Qualified Issuer applicant, its proposed Program Administrator, its proposed Servicer, and each Certified CDFI that is included in the Qualified Issuer Application or Guarantee Application must register User and Organization accounts in myCDFIFund, the CDFI Fund's Internet-based interface. Each such entity must be registered as an Organization and register at least one (1) User Account in myCDFIFund in order for any Application to be considered complete. As myCDFIFund is the CDFI Fund's primary means of communication with applicants with regard to its programs, each such entity must make sure that it updates the contact information in its myCDFIFund account before any Application is submitted. For more information on myCDFIFund, please see the ''Frequently Asked Questions'' link posted at *https://www.cdfifund.gov/myCDFI/Help/Help.asp*.

C. Form of Application

1. As of the date of this NOGA, the Qualified Issuer Application, the Guarantee Application and related application guidance may be found on the CDFI Bond Guarantee Program's page on the CDFI Fund's Web site at *http://www.cdfifund.gov.*

2. *Paperwork Reduction Act.* Under the Paperwork Reduction Act (44 U.S.C. chapter 35), an agency may not conduct or sponsor a collection of information, and an individual is not required to respond to a collection of information, unless it displays a valid OMB control number. Pursuant to the Paperwork Reduction Act, the Qualified Issuer Application, the Guarantee Application, and the Secondary Loan Requirements have been assigned the following control number: 1559–0044.

3. *Application deadlines.* In order to be considered for the issuance of a Guarantee under FY 2014 program authority, Qualified Issuer Applications must be submitted by June 23, 2014 and Guarantee Applications must be submitted by June 30, 2014. Qualified Issuer Applications and Guarantee Applications received in FY 2013 and that were neither withdrawn nor declined will be considered under FY 2014 authority.

4. *Format.* Detailed Qualified Issuer Application and Guarantee Application content requirements are found in the Applications and application guidance. The CDFI Fund will read only information requested in the Application and reserves the right not to read attachments or supplemental materials that have not been specifically requested in this NOGA, the Qualified Issuer or the Guarantee Application. Supplemental materials or attachments such as letters of public support or other statements that are meant to bias or unduly influence the Application review process will not be read.

5. *Application revisions.* After submitting a Qualified Issuer Application or a Guarantee Application, the applicant will not be permitted to revise or modify the Application in any way unless authorized or requested by the CDFI Fund.

6. *Material changes.*

(a) In the event that there are material changes after the submission of a Qualified Issuer Application prior to the designation as a Qualified Issuer, the applicant must notify the CDFI Fund of such material changes information in a timely and complete manner. The CDFI Fund will evaluate such material changes, along with the Qualified Issuer Application, to approve or deny the designation of the Qualified Issuer.

(b) In the event that there are material changes after the submission of a Guarantee Application (including, but not limited to, a revision of the Capital Distribution Plan or a change in the Eligible CDFIs that are included in the application) prior to or after the designation as a Qualified Issuer or approval of a Guarantee Application or Guarantee, the applicant must notify the CDFI Fund of such material changes information in a timely and complete manner. The Guarantor will evaluate such material changes, along with the Guarantee Application, to approve or deny the Guarantee Application and/or determine whether to modify the terms and conditions of the Agreement to Guarantee. This evaluation may result in a delay of the approval or denial of a Guarantee Application.

D. Eligibility and Completeness Review

The CDFI Fund will review each Qualified Issuer and Guarantee Application to determine whether it is complete and the applicant meets eligibility requirements described in the Regulations at 12 CFR 1808.200 and 1808.401, this NOGA, and the Applications. An incomplete Qualified Issuer Application or Guarantee Application, or one that does not meet eligibility requirements, will be rejected. If the CDFI Fund determines that additional information is needed to assess the Qualified Issuer's and/or the Certified CDFIs' ability to participate in and comply with the requirements of the CDFI Bond Guarantee Program, the CDFI Fund may require that the Qualified Issuer furnish additional, clarifying, confirming or supplemental information. If the CDFI Fund requests such additional, clarifying, confirming or supplemental information, the Qualified Issuer must provide it within the timeframes requested by the CDFI Fund. Until such information is provided to the CDFI Fund, the Qualified Issuer Application or Guarantee Application will not be moved forward for the Substantive Review process. The Guarantor shall approve or deny a Guarantee Application no later than 90 days after the date the Guarantee Application has been advanced for Substantive Review.

E. Regulated Entities

In the case of Qualified Issuer applicants, proposed Program Administrators, proposed Servicers and Certified CDFIs that are included in the Qualified Issuer Application or Guarantee Application that are Insured Depository Institutions and Insured Credit Unions, the CDFI Fund will consider information provided by, and views of, the Appropriate Federal Banking Agencies. If any such entity is a CDFI bank holding company, the CDFI Fund will consider information provided by the Appropriate Federal Banking Agencies of the CDFI bank holding company and its CDFI bank(s). Throughout the Application review process, the CDFI Fund will consult with the Appropriate Federal Banking Agency about the applicant's financial safety and soundness. If the Appropriate Federal Banking Agency identifies safety and soundness concerns, the CDFI Fund will assess whether the concerns cause or will cause the applicant to be incapable of undertaking activities related to the CDFI Bond Guarantee Program. The CDFI Fund also reserves the right to require a regulated applicant to improve safety and soundness conditions prior to being approved as a Qualified Issuer or Eligible CDFI. In addition, the CDFI Fund will take into consideration Community Reinvestment Act assessments of Insured Depository Institutions and/or their Affiliates.

F. Prior CDFI Fund Awardees

All applicants must be aware that success under any of the CDFI Fund's programs is not indicative of success under this NOGA. Prior CDFI Fund awardees should note the following:

1. *Pending resolution of noncompliance.* If a Qualified Issuer applicant, its proposed Program Administrator, its proposed Servicer, or any of the Certified CDFIs included in the Qualified Issuer Application or Guarantee Application, is a prior awardee or allocatee under any CDFI Fund program and (i) it has submitted reports to the CDFI Fund that demonstrate noncompliance with a previously executed agreement with the CDFI Fund, and (ii) the CDFI Fund has yet to make a final determination as to whether the entity is in default of its previously executed agreement, the CDFI Fund will consider the Qualified Issuer Application or Guarantee Application pending full resolution, in the sole determination of the CDFI Fund, of the noncompliance.

2. *Default status.* The CDFI Fund will not consider a Qualified Issuer Application or Guarantee Application if the applicant, its proposed Program Administrator, its proposed Servicer, or any of the Certified CDFIs included in the Qualified Issuer Application or Guarantee Application, is a prior awardee or allocatee under any CDFI Fund program if, as of the date of Qualified Issuer Application or Guarantee Application submission, (i) the CDFI Fund has made a determination that such entity is in default of a previously executed agreement and (ii) the CDFI Fund has provided written notification of such determination to the Qualified Issuer applicant indicating the length of time the default status is effective. Such entities will be ineligible to submit a Qualified Issuer Application, or be included in such submission, as the case may be, so long as the applicant's, its proposed Program Administrator's, its proposed Servicer's, or such Certified CDFI's prior award or allocation remains in default status or such other time period as specified by the CDFI Fund in writing.

3. *Undisbursed award funds.* The CDFI Fund will not consider a Qualified Issuer Application or Guarantee Application, if the applicant, its proposed Program Administrator, its proposed Servicer, or any Certified CDFI that is included in the Qualified Issuer Application or Guarantee Application, is an awardee under any CDFI Fund program and has undisbursed award funds (as defined below) as of the Qualified Issuer Application or Guarantee Application submission date. The CDFI Fund will include the combined undisbursed prior awards, as of the date of the Qualified Issuer Application submission, of the applicant, the proposed Program Administrator, the proposed Servicer, and any Certified CDFIs included in the application.

For purposes of the calculation of undisbursed award funds for the Bank Enterprise Award (BEA) Program, only awards made to the Qualified Issuer applicant, its proposed Program Administrator, its proposed Servicer, and any Certified CDFI included in the Qualified Issuer Application, three to five calendar years prior to the end of the calendar year of the Qualified Issuer Application submission date are included. For purposes of the calculation of undisbursed award funds for the CDFI Program, the Native American CDFI Assistance (NACA) Program, and the Capital Magnet Fund (CMF), only awards made to the Qualified Issuer applicant, its proposed Program Administrator, its proposed Servicer, and any Certified CDFI included in the Qualified Issuer Application, two to five calendar years prior to the end of the calendar year of the Qualified Issuer Application submission date are included.

Undisbursed awards cannot exceed five percent of the total includable awards for the Applicant's BEA/CDFI/NACA/CMF awards as of the date of submission of the Qualified Issuer Application. The calculation of

undisbursed award funds does not include: (i) Tax credit allocation authority made available through the New Markets Tax Credit Program; (ii) any award funds for which the CDFI Fund received a full and complete disbursement request from the awardee by the date of submission of the Qualified Issuer Application; (iii) any award funds for an award that has been terminated in writing by the CDFI Fund or de-obligated by the CDFI Fund; or (iv) any award funds for an award that does not have a fully executed assistance or award agreement. The CDFI Fund strongly encourages Qualified Issuer applicants, proposed Program Administrators, proposed Servicers, and any Certified CDFIs included in a Qualified Issuer Application that wish to request disbursements of undisbursed funds from prior awards to provide the CDFI Fund with a complete disbursement request at least 10 business days prior to the date of submission of a Qualified Issuer Application.

G. Contact the CDFI Fund

A Qualified Issuer applicant, its proposed Program Administrator, its proposed Servicer, or any Certified CDFIs included in the Qualified Issuer Application or Guarantee Application that are prior CDFI Fund awardees are advised to: (i) Comply with requirements specified in CDFI Fund assistance, allocation, and/or award agreement(s), and (ii) contact the CDFI Fund to ensure that all necessary actions are underway for the disbursement or deobligation of any outstanding balance of said prior award(s). Any such parties that are unsure about the disbursement status of any prior award should contact the CDFI Fund's Senior Resource Manager via email at *CDFI.disburseinquiries@cdfi.treas.gov*. All outstanding reports and compliance questions should be directed to Certification, Compliance Monitoring, and Evaluation support by email at *ccme@cdfi.treas.gov* or by telephone at (202) 653–0423. The CDFI Fund will respond to applicants' reporting, compliance, or disbursement questions between the hours of 9:00 a.m. and 5:00 p.m. ET, starting on the date of the publication of this NOGA.

H. Evaluating Prior Award Performance

In the case of a Qualified Issuer, a proposed Program Administrator, a proposed Servicer, or Certified CDFI that has received awards from other Federal programs, the CDFI Fund reserves the right to contact officials from the appropriate Federal agency or agencies to determine whether the entity is in compliance with current or prior award agreements, and to take such information into consideration before issuing a Guarantee. In the case of such an entity that has previously received funding through any CDFI Fund program, the CDFI Fund will review those entities that have a history of providing late reports and consider such history in the context of organizational capacity and the ability to meet future reporting requirements.

The CDFI Fund may also bar from consideration any such entity that has, in any proceeding instituted against it in, by, or before any court, governmental, or administrative body or agency, received a final determination within the last two (2) years indicating that the entity has discriminated on the basis of race, color, national origin, disability, age, marital status, receipt of income from public assistance, religion, or sex, including but not limited to discrimination under (i) Title VI of the Civil Rights Act of 1964 (Pub. L. 88–352) which prohibits discrimination on the basis of race, color or national origin; (ii) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. 1681–1683, 1685–1686), which prohibits discrimination on the basis of sex; (iii) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), which prohibits discrimination on the basis of handicaps; (iv) the Age Discrimination Act of 1975, as amended (42 U.S.C. 6101–6107), which prohibits discrimination on the basis of age; (v) the Drug Abuse Office and Treatment Act of 1972 (Pub. L. 92–255), as amended, relating to nondiscrimination on the basis of drug abuse; (vi) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (Pub. L. 91–616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (vii) Sections 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290dd–3 and 290ee–3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (viii) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 *et seq.*), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (ix) any other nondiscrimination provisions in the specific statute(s) under which Federal assistance is being made; and (x) the requirements of any other nondiscrimination statutes which may apply to the CDFI Bond Guarantee Program.

I. Changes to Review Procedures

The CDFI Fund reserves the right to change its completeness, eligibility and evaluation criteria and procedures if the CDFI Fund deems it appropriate. If such changes materially affect the CDFI Fund's decision to approve or deny a Qualified Issuer Application, the CDFI Fund will provide information regarding the changes through the CDFI Fund's Web site.

J. Decisions Are Final

The CDFI Fund's Qualified Issuer Application decisions are final. The Guarantor's Guarantee Application decisions are final. There is no right to appeal the decisions. Any applicant that is not approved by the CDFI Fund or the Guarantor may submit a new Application and will be considered based on the newly submitted Application. Such newly submitted Applications will be reviewed along with all other pending Applications in the order in which they are received, or by such other criteria that the CDFI Fund may establish and publish, in its sole discretion.

III. Qualified Issuer Application

A. *General.* This NOGA invites interested parties to submit a Qualified Issuer Application to be approved as a Qualified Issuer under the CDFI Bond Guarantee Program.

1. *Qualified Issuer.* The Qualified Issuer is a Certified CDFI, or any entity designated by a Certified CDFI to issue Bonds on its behalf, that meets the requirements of the Regulations and this NOGA, and that has been approved by the CDFI Fund pursuant to review and evaluation of its Qualified Issuer Application. The Qualified Issuer will, among other duties: (i) Organize the Eligible CDFIs that have designated it to serve as their Qualified Issuer; (ii) prepare and submit a complete and timely Qualified Issuer and Guarantee Application to the CDFI Fund; (iii) if the Qualified Issuer Application is approved by the CDFI Fund and the Guarantee Application is approved by the Guarantor, prepare the Bond Issue; (iv) manage all Bond Issue servicing, administration, and reporting functions; (v) make Bond Loans; (vi) oversee the financing or refinancing of Secondary Loans; (vii) ensure compliance throughout the duration of the Bond with all provisions of the Regulations, and Bond Documents and Bond Loan Documents entered into between the Guarantor, the Qualified Issuer, and the Eligible CDFI; and (viii) ensure that the Master Servicer/Trustee complies with

the Bond Trust Indenture and all other applicable regulations.

2. *Qualified Issuer Application.* The Qualified Issuer Application is the document that an entity seeking to serve as a Qualified Issuer submits to the CDFI Fund to apply to be approved as a Qualified Issuer prior to consideration of a Guarantee Application.

3. *Qualified Issuer Application evaluation, general.* Each Qualified Issuer Application will be evaluated by the CDFI Fund and, if acceptable, the applicant will be approved as a Qualified Issuer, in the sole discretion of the CDFI Fund. The CDFI Fund's Qualified Issuer Application review and evaluation process is based on established procedures, which may include interviews of applicants and/or site visits to applicants conducted by the CDFI Fund. Through the Application review process, the CDFI Fund will evaluate Qualified Issuer applicants on a merit basis and in a fair and consistent manner. Each Qualified Issuer applicant will be reviewed on its ability to successfully carry out the responsibilities of a Qualified Issuer throughout the life of the Bond. The Applicant must currently meet the criteria established in the Regulations to be deemed a Qualified Issuer. Qualified Issuer Applications that are forward-looking or speculate as to the eventual acquisition of the required capabilities and criteria are unlikely to be approved. Qualified Issuer Application processing will be initiated in chronological order by date of receipt; however, Qualified Applications that are incomplete or require the CDFI Fund to request additional or clarifying information may delay the ability of the CDFI Fund to deem the Qualified Application complete and move it to the next phase of review. Submitting a substantially incomplete application earlier than other applicants does not ensure first approval.

B. *Qualified Issuer Application: Eligibility.*

1. *CDFI certification requirements.* The Qualified Issuer applicant must be a Certified CDFI or an entity designated by a Certified CDFI to issue Bonds on its behalf.

2. *Designation and attestation by Certified CDFIs.* An entity seeking to be approved by the CDFI Fund as a Qualified Issuer must be designated as a Qualified Issuer by at least one Certified CDFI. A Qualified Issuer may not designate itself. The Qualified Issuer applicant will prepare and submit a complete and timely Qualified Issuer Application to the CDFI Fund in accordance with the requirements of the Regulations, this NOGA and the Application. A Certified CDFI must attest in the Qualified Issuer Application that it has designated the Qualified Issuer to act on its behalf and that the information in the Qualified Issuer Application regarding it is true, accurate and complete.

C. *Substantive review and approval process.*

1. *Substantive Review.*

(a) If the CDFI Fund determines that the Qualified Issuer Application is complete and eligible, the CDFI Fund will undertake a substantive review in accordance with the criteria and procedures described in the Regulations, this NOGA, the Qualified Issuer Application, and CDFI Bond Guarantee Program policies.

(b) As part of the substantive evaluation process, the CDFI Fund reserves the right to contact the Qualified Issuer applicant (as well as its proposed Program Administrator, its proposed Servicer, and each designating Certified CDFI in the Qualified Issuer Application) by telephone, email, mail, or through on-site visits for the purpose of obtaining additional, clarifying, confirming, or supplemental application information. The CDFI Fund reserves the right to collect such additional, clarifying, confirming, or supplemental information from said entities as it deems appropriate. If contacted for additional, clarifying, confirming, or supplemental information, said entities must respond within the time parameters set by the CDFI Fund or the Qualified Issuer Application will be rejected.

2. *Qualified Issuer criteria.* In total, there are more than 60 individual criteria or sub-criteria used to evaluate a Qualified Issuer applicant and all materials provided in the Qualified Issuer Application will be used to evaluate the applicant. Qualified Issuer determinations will be made based on Qualified Issuer applicants' experience and expertise, in accordance with the following criteria:

(a) *Organizational capability.*

(i) The Qualified Issuer applicant must demonstrate that it has the appropriate expertise, capacity, experience, and qualifications to issue Bonds for Eligible Purposes, as well as manage the Bond Issue on the terms and conditions set forth in the Regulations, this NOGA, and the Bond Documents, satisfactory to the CDFI Fund.

(ii) The Qualified Issuer applicant must demonstrate that it has the appropriate expertise, capacity, and experience to originate, underwrite, service and monitor Bond Loans for Eligible Purposes, targeted to Low-Income Areas and Underserved Rural Areas.

(iii) The Qualified Issuer applicant must demonstrate that it has the appropriate expertise, capacity, and experience to manage the disbursement process set forth in the Regulations at 12 CFR 1808.302 and 1808.307.

(b) *Servicer.* The Qualified Issuer applicant must demonstrate that it has (either directly or contractually through another designated entity) the appropriate expertise, capacity, and experience, or is otherwise qualified to serve as Servicer. The Qualified Issuer Application must provide information that demonstrates that the Qualified Issuer's Servicer has the expertise and experience necessary to perform certain required administrative duties (including, but not limited to, Bond Loan servicing functions).

(c) *Program Administrator.* The Qualified Issuer applicant must demonstrate that it has (either directly or contractually through another designated entity) the appropriate expertise, capacity, and experience, or is otherwise qualified to serve as Program Administrator. The Qualified Issuer Application must provide information that demonstrates that the Qualified Issuer's Program Administrator has the expertise and experience necessary to perform certain required administrative duties (including, but not limited to, compliance monitoring and reporting functions).

(d) *Strategic alignment.* The Qualified Issuer applicant will be evaluated on its strategic alignment with the CDFI Bond Guarantee Program on factors that include, but are not limited to: (i) Its mission's strategic alignment with community and economic development objectives set forth in the Riegle Act at 12 U.S.C. 4701; (ii) its strategy for deploying the entirety of funds that may become available to the Qualified Issuer through the proposed Bond Issue; (iii) its experience providing up to 30-year capital to CDFIs or other borrowers in Low-Income Areas or Underserved Rural Areas as such terms are defined in the Regulations at 12 CFR 1808.102; (iv) its track record of activities relevant to its stated strategy; and (v) other factors relevant to the Qualified Issuer's strategic alignment with the program.

(e) *Experience.* The Qualified Issuer applicant will be evaluated on factors that demonstrate that it has previous experience: (i) Performing the duties of a Qualified Issuer including making bond issuances, loan servicing, program administration, underwriting, financial reporting, and loan administration; (ii) lending in Low-Income Areas and Underserved Rural Areas; and (iii)

indicating that the Qualified Issuer's current principals and team members have successfully performed the required duties, and that previous experience is applicable to the current principals and team members.

(f) *Management and staffing.* The Qualified Issuer applicant must demonstrate that it has sufficiently strong management and staffing capacity to undertake the duties of Qualified Issuer. The applicant must also demonstrate that its proposed Program Administrator and its proposed Servicer have sufficiently strong management and staffing capacity to undertake their respective requirements under the CDFI Bond Guarantee Program. Strong management and staffing capacity is evidenced by factors that include, but are not limited to: (i) A sound track record of delivering on past performance; (ii) a documented succession plan; (iii) organizational stability including staff retention; and (iv) a clearly articulated, reasonable and well-documented staffing plan.

(g) *Financial strength.* The Qualified Issuer applicant must demonstrate the strength of its financial capacity and activities including, among other items, financially sound business practices relative to the industry norm for bond issuers, as evidenced by reports of Appropriate Federal Banking Agencies, Appropriate State Agencies, or auditors. Such financially sound business practices will demonstrate: (i) The financial wherewithal to perform activities related to the Bond Issue such as administration and servicing; (ii) the ability to originate, underwrite, close, and disburse loans in a prudent manner; (iii) whether the applicant is depending on external funding sources and the reliability of long-term access to such funding; (iv) whether there are foreseeable counterparty issues or credit concerns that are likely to affect the applicant's financial stability; and (v) a budget that reflects reasonable assumptions about upfront costs as well as ongoing expenses and revenues.

(h) *Systems and information technology.* The Qualified Issuer applicant must demonstrate that it (as well as its proposed Program Administrator and its proposed Servicer) has, among other things: (i) A strong information technology capacity and the ability to manage loan servicing, administration, management and document retention; (ii) appropriate office infrastructure and related technology to carry out the CDFI Bond Guarantee Program activities; and (iii) sufficient backup and disaster recovery systems to maintain uninterrupted business operations.

(i) *Pricing structure.* The Qualified Issuer applicant must provide its proposed pricing structure for performing the duties of Qualified Issuer, including the pricing for the roles of Program Administrator and Servicer. Although the pricing structure and fees shall be decided by negotiation between market participants without interference or approval by the CDFI Fund, the CDFI Fund will evaluate whether the Qualified Issuer applicant's proposed pricing structure is feasible to carry out the responsibilities of a Qualified Issuer over the life of the Bond and sound implementation of the program.

(j) *Other criteria.* The Qualified Issuer applicant must meet such other criteria as may be required by the CDFI Fund, as set forth in the Qualified Issuer Application or required by the CDFI Fund in its sole discretion, for the purposes of evaluating the merits of a Qualified Issuer Application. The CDFI Fund may request an on-site review of Qualified Issuer applicant to confirm materials provided in the written application, as well as to gather additional due diligence information. The on-site reviews are a critical component of the application review process and will generally be conducted for all applicants not regulated by an Appropriate Federal Banking Agency or Appropriate State Agency. The CDFI Fund reserves the right to conduct a site visit of regulated entities, in its sole discretion.

(k) *Third-party data sources.* The CDFI Fund, in its sole discretion, may consider information from third-party sources including, but not limited to, periodicals or publications, publicly available data sources, or subscriptions services for additional information about the Qualified Issuer applicant, the proposed Program Administrator, the proposed Servicer and each Certified CDFI that is included in the Qualified Issuer Application. Any additional information received from such third-party sources will be reviewed and evaluated through a systematic and formalized process.

D. *Notification of Qualified Issuer determination.* Each Qualified Issuer applicant will be informed of the CDFI Fund's decision in writing, by email using the addresses maintained in the entity's myCDFIFund account. The CDFI Fund will not notify the proposed Program Administrator, the proposed Servicer, or the Certified CDFIs included in the Qualified Issuer Application of its decision regarding the Qualified Issuer Application; such contacts are the responsibility of the Qualified Issuer applicant.

E. *Qualified Issuer Application rejection.* In addition to substantive reasons based on the merits of its review, the CDFI Fund reserves the right to reject a Qualified Issuer Application if information (including administrative errors) comes to the attention of the CDFI Fund that adversely affects an applicant's eligibility, adversely affects the CDFI Fund's evaluation of a Qualified Issuer Application, or indicates fraud or mismanagement on the part of a Qualified Issuer applicant or its proposed Program Administrator, its proposed Servicer, and any Certified CDFI included in the Qualified Issuer Application. If the CDFI Fund determines that any portion of the Qualified Issuer Application is incorrect in any material respect, the CDFI Fund reserves the right, in its sole discretion, to reject the Application.

IV. Guarantee Applications

A. *General.* This NOGA invites Qualified Issuers to submit a Guarantee Application to be approved for a Guarantee under the CDFI Bond Guarantee Program.

1. *Guarantee Application.*

(a) The Guarantee Application is the application document that a Qualified Issuer (in collaboration with the Eligible CDFIs that seek to be included in the proposed Bond Issue) must submit to the CDFI Fund in order to apply for a Guarantee. The Qualified Issuer shall provide all required information in its Guarantee Application to establish that it meets all criteria set forth in the Regulations at 12 CFR 1808.501 and this NOGA and can carry out all CDFI Bond Guarantee Program requirements including, but not limited to, information that demonstrates that the Qualified Issuer has the appropriate expertise, capacity, and experience and is qualified to make, administer and service Bond Loans for Eligible Purposes.

(b) The Guarantee Application comprises a Capital Distribution Plan and at least one Secondary Capital Distribution Plan, as well as all other requirements set forth in this NOGA or as may be required by the Guarantor and the CDFI Fund in their sole discretion, for the evaluation and selection of Guarantee applicants.

2. *Guarantee Application evaluation, general.* The Guarantee Application review and evaluation process will be based on established standard procedures, which may include interviews of applicants and/or site visits to applicants conducted by the CDFI Fund. Through the Application review process, the CDFI Fund will evaluate Guarantee applicants on a

merit basis and in a fair and consistent manner. Each Guarantee applicant will be reviewed on its ability to successfully implement and carry out the activities proposed in its Guarantee Application throughout the life of the Bond. Eligible CDFIs must currently meet the criteria established in the Regulations to participate in the CDFI Bond Guarantee Program. Guarantee Applications that are forward-looking or speculate as to the eventual acquisition of the required capabilities and criteria by the Eligible CDFI(s) are unlikely to be approved. Guarantee Application processing will be initiated in chronological order by date of receipt; however, Guarantee Applications that are incomplete or require the CDFI Fund to request additional or clarifying information may delay the ability of the CDFI Fund to deem the Guarantee Application complete and move it to the next phase of review. Submitting a substantially incomplete application earlier than other applicants does not ensure first approval.

B. *Guarantee Application: eligibility.*

1. *Eligibility; CDFI certification requirements.* Each Eligible CDFI must be a Certified CDFI as of the date of submission of a Guarantee Application. If approved for a Guarantee, each Eligible CDFI must be a Certified CDFI as of the Bond Issue Date and must maintain its respective CDFI certification throughout the term of the corresponding Bond. For more information on CDFI Certification see part II of this NOGA.

2. *Qualified Issuer as Eligible CDFI.* A Qualified Issuer may not participate as an Eligible CDFI within its own Bond Issue, but may participate as an Eligible CDFI in a Bond Issue managed by another Qualified Issuer.

3. *Attestation by proposed Eligible CDFIs.* Each proposed Eligible CDFI must attest in the Guarantee Application that it has designated the Qualified Issuer to act on its behalf and that the information pertaining to the Eligible CDFI in the Guarantee Application is true, accurate and complete. Each proposed Eligible CDFI must also attest in the Guarantee Application that it will use Bond Loan proceeds for Eligible Purposes and that Secondary Loans will be financed or refinanced only within the applicable Secondary Loan Requirements.

C. *Guarantee Application: preparation.* When preparing the Guarantee Application, the Eligible CDFIs and Qualified Issuer must collaborate to determine the composition and characteristics of the Bond Issue, ensuring compliance with the Act, the Regulations, and this NOGA. The Qualified Issuer is responsible for the collection, preparation, verification and submission of the Eligible CDFI information that is presented in the Guarantee Application. The Qualified Issuer will submit the Guarantee Application for the proposed Bond Issue, including any information provided by the proposed Eligible CDFIs. In addition, the Qualified Issuer will serve as the primary point of contact with the CDFI Fund during the Guarantee Application review and evaluation process.

D. *Review and approval process.*

1. *Substantive review.*

(a) If the CDFI Fund determines that the Guarantee Application is complete and eligible, the CDFI Fund will undertake a Substantive Review in accordance with the criteria and procedures described in the Regulations at 12 CFR 1808.501, this NOGA, and the Guarantee Application. The Substantive Review of the Guarantee Application will include due diligence, underwriting, credit risk review and Federal credit subsidy calculation in order to determine the feasibility and risk of the proposed Bond Issue, as well as the strength and capacity of the Qualified Issuer and each proposed Eligible CDFI. Each proposed Eligible CDFI will be evaluated independently of the other proposed Eligible CDFIs within the proposed Bond Issue.

(b) As part of the Substantive Review process, the CDFI Fund may contact the Qualified Issuer (as well as the proposed Eligible CDFIs included in the Guarantee Application) by telephone, email, mail, or through an on-site visit for the sole purpose of obtaining additional, clarifying, confirming, or supplemental application information. The CDFI Fund reserves the right to collect such additional, clarifying, confirming or supplemental information as it deems appropriate. If contacted for additional, clarifying, confirming, or supplemental information, said entities must respond within the time parameters set by the CDFI Fund or the Guarantee Application will be rejected.

2. *Guarantee Application criteria.*

(a) In general, a Guarantee Application will be evaluated based on the strength and feasibility of the proposed Bond Issue, as well as the creditworthiness and performance of the Qualified Issuer and the proposed Eligible CDFIs. Guarantee Applications must demonstrate that each proposed Eligible CDFI has the capacity for its respective Bond Loan to be a general recourse obligation of the proposed Eligible CDFI and to deploy the Bond Loan proceeds within the required disbursement timeframe as described in the Regulations. Unless receiving significant third-party support or Credit Enhancements, Eligible CDFIs should not request Bond Loans greater than their current total asset size or which would otherwise significantly impair their net asset or net equity position. Further, unless receiving significant third-party support or Credit Enhancements, entities with a limited operating history or a history of operating losses are unlikely to meet the strength and feasibility requirements of the CDFI Bond Guarantee Program.

(b) The Capital Distribution Plan must demonstrate the Qualified Issuer's comprehensive plan for lending, disbursing, servicing and monitoring each Bond Loan in the Bond Issue. It includes, among other information, the following components:

(i) *Statement of Proposed Sources and Uses of Funds:* Pursuant to the requirements set forth in the Regulations at 12 C.R1808.102(bb) and 1808.301, the Qualified Issuer must provide: (A) A description of the overall plan for the Bond Issue; (B) a description of the proposed uses of Bond Proceeds and proposed sources of funds to repay principal and interest on the proposed Bond and Bond Loans; (C) a certification that 100 percent of the principal amounts of the proposed Bond will be used to make Bond Loans for Eligible Purposes on the Bond Issue Date; and (D) description of the extent to which the proposed Bond Loans will serve Low-Income Areas or Underserved Rural Areas;

(ii) *Bond Issue Qualified Issuer cash flow model:* The Qualified Issuer must provide a cash flow model displaying the orderly repayment of the Bond and the Bond Loans according to their respective terms. The cash flow model shall include disbursement and repayment of Bonds, Bond Loans, and Secondary Loans. The cash flow model shall match the aggregated cash flows from the Secondary Capital Distribution Plans of each of the underlying Eligible CDFIs in the Bond Issue pool;

(iii) *Organizational capacity:* If not submitted concurrently, the Qualified Issuer must attest that no material changes have occurred since the time that it submitted the Qualified Issuer Application;

(iv) *Credit Enhancement (if applicable):* The Qualified Issuer must provide information about the adequacy of proposed risk mitigation provisions designed to protect the financial interests of the Federal Government, either directly or indirectly through supporting the financial strength of the Bond Issue. This includes, but is not limited to, the amount and quality of

any Credit Enhancements, terms and specific conditions such as renewal options, and any limiting conditions or revocability by the provider of the Credit Enhancement;

(v) *Proposed Term Sheets:* For each Eligible CDFI that is part of the proposed Bond Issue, the Qualified Issuer must submit a proposed Term Sheet using the template provided on the CDFI Fund's Web site. The proposed Term Sheet must clearly state all relevant and critical terms of the proposed Bond Loan including, but not limited to: any requested prepayment provisions; unique conditions precedent; proposed covenants and exact calculations for determining compliance, and terms and exact language describing any Credit Enhancements.

(vi) *Secondary Capital Distribution Plan(s):* Each proposed Eligible CDFI must provide a comprehensive plan for financing, disbursing, servicing and monitoring Secondary Loans, how each proposed Secondary Loan will meet Eligible Purposes, and such other requirements that may be required by the Guarantor and the CDFI Fund, including:

(A) *Narrative and Statement of Proposed Sources and Uses of Funds:* Each Eligible CDFI will: (1) Provide a description of proposed uses of funds, including the extent to which Bond Loans will serve Low-Income Areas or Underserved Rural Areas, and the extent to which Bond Loan proceeds will be used (i) to make the first monthly installment of a Bond Loan payment, (ii) pay Issuance Fees up to one percent of the Bond Loan, and (iii) finance Loan Loss Reserves related to Secondary Loans; (2) attest that 100 percent of Bond Loan proceeds designated for Secondary Loans will be used to finance or refinance Secondary Loans that meet Secondary Loan Requirements; (3) describe a plan for financing, disbursing, servicing, and monitoring Secondary Loans; (4) indicate the expected asset classes to which it will lend under the Secondary Loan Requirements; (5) indicate examples of previous lending and years of experience lending to a specific asset class; (6) provide a table detailing specific uses and timing of disbursements, including terms and relending plans if applicable; and (7) a community impact analysis, including how the proposed Secondary Loans will address financing needs that the private market is not adequately serving and specific community benefit metrics;

(B) *Eligible CDFI cash flow model:* Each Eligible CDFI must provide a cash flow model of the proposed Bond Loan which: (1) Matches each Eligible CDFI's portion of the Qualified Issuer's cash flow model; and (2) tracks the flow of funds through the term of the Bond Issue and demonstrates disbursement and repayment of the Bond Loan, Secondary Loans, and any utilization of the Relending Fund, if applicable;

(C) *Organizational capacity:* Each Eligible CDFI must provide documentation indicating the ability of the Eligible CDFI to manage its Bond Loan including, but not limited to: (1) Organizational ownership and chart of affiliates; (2) organizational documents; (3) management or operating agreement, if applicable; (4) an analysis by management of its ability to manage the funding, monitoring, and collection of loans being contemplated with the proceeds of the Bond Loan; (5) information about its board of directors; (6) a governance narrative; (7) description of senior management and employee base; (8) independent reports, if available; (9) strategic plan or related progress reports; and (10) a discussion of the management and information systems used by the Eligible CDFI;

(D) *Policies and procedures:* Each Eligible CDFI must provide policies and procedures for the matching of assets and liabilities, as well as loan policies and procedures: a copy of the asset-liability matching policy, if applicable; and loan policies which address topics including, but not limited to: (1) Origination, underwriting, credit approval, interest rates, closing, documentation, and portfolio monitoring and (2) risk-rating definitions, charge-offs, and loan loss reserve methodology;

(E) *Financial statements:* Each Eligible CDFI must provide information about the Eligible CDFI's current and future financial position, including but not limited to: (1) Most recent three years of audited financial statements; (2) current year-to-date or interim financial statement; (3) a copy of the current year's approved budget; and (4) a three year operating projection;

(F) *Loan portfolio information:* Each Eligible CDFI must provide information such as: (1) Loan portfolio quality report; (2) pipeline report; (3) portfolio listing; (4) a description of other loan assets under management; (5) loan products; (6) independent loan review report; (7) impact report case studies; and (8) a loan portfolio by risk rating and loan loss reserves; and

(G) *Funding sources and financial activity information:* Each Eligible CDFI must provide information including, but not limited to: (1) Current grant information; (2) funding projections; (3) credit enhancements; (4) historical investor renewal rates; (5) covenant compliance; (6) off-balance sheet contingencies; (7) earned revenues; and (8) debt capital statistics.

(vii) Assurances and certifications that not less than 100 percent of the principal amount of Bonds will be used to make Bond Loans for Eligible Purposes beginning on the Bond Issue Date, and that Secondary Loans shall be made as set forth in subsection 1808.307(b); and

(viii) Such other information that the Guarantor, the CDFI Fund and/or the Bond Purchaser may deem necessary and appropriate.

(c) The CDFI Fund will use the information described in the Capital Distribution Plan and Secondary Capital Distribution Plan(s) to evaluate the feasibility of the proposed Bond Issue, with specific attention paid to each Eligible CDFI's financial strength and organizational capacity. All materials provided in the Guarantee Application will be used to evaluate the proposed Bond Issue. In total, there are more than 100 individual criteria or sub-criteria used to evaluate each Eligible CDFI. Specific criteria used to evaluate each Eligible CDFI shall include, but not be limited to:

(i) *Historical financial ratios:* Ratios which together have been shown to be predictive of possible future default will be used an initial screening tool, including total asset size, net asset or Tier 1 Core Capital ratio, self-sufficiency ratio, non-performing asset ratio, liquidity ratio, reserve over nonperforming assets, and yield cost spread;

(ii) *Quantitative and qualitative attributes under the ''CAMEL'' framework:* After initial screening, the CDFI Fund will utilize a more detailed analysis under the ''CAMEL'' framework including but not limited to:

(A) Capital Adequacy: Attributes such as the debt-to-equity ratio, status and significance of off-balance sheet liabilities or contingencies, magnitude and consistency of cash flow performance, exposure to affiliates for financial and operating support, trends in changes to capitalization, and other relevant attributes;

(B) Asset Quality: Attributes such as the charge-off ratio, adequacy of loan loss reserves, sector concentration, borrower concentration, asset composition, security and collateralization of the loan portfolio, trends in changes to asset quality, and other relevant attributes;

(C) Management: Attributes such as documented best practices in governance, strategic planning and board involvement, robust policies and

procedures, tenured and experienced management team, organizational stability, infrastructure and information technology systems, and other relevant attributes;

(D) Earnings and Performance: Attributes such as net operating margins, deployment of funds, self-sufficiency, trends in earnings, and other relevant attributes;

(E) Liquidity: Attributes such as unrestricted cash and cash equivalents, ability to access credit facilities, access to grant funding, covenant compliance, affiliate relationships, concentration of funding sources, trends in liquidity, and other relevant attributes;

(iii) *Forecast performance and other relevant criteria:* The CDFI Fund will stress test each Eligible CDFI's forecasted performance under scenarios that are specific to the unique circumstance and attributes of the organization. Additionally, the CDFI Fund will consider other relevant criteria that have not been adequately captured in the preceding steps as part of the due diligence process. Such criteria may include, but not be limited to, the size and quality of any third-party Credit Enhancements or other forms of support.

(A) *Overcollateralization:* The commitment by an Eligible CDFI to over-collateralize a proposed Bond Loan with excess Secondary Loans is a criterion that may affect the viability of a Guarantee Application by decreasing the estimated net present value of the long-term cost of the Guarantee to the Federal Government, by decreasing the probability of default, and/or increasing the recovery rate in the event of default. An Eligible CDFI committing to overcollateralization may not be required to deposit funds in the Relending Account, subject to the maintenance of certain unique requirements that are detailed in the template Agreement to Guarantee and Bond Loan Agreement;

(B) *Credit Enhancements:* The provision of third-party Credit Enhancements is a criterion that may affect the viability of a Guarantee Application by decreasing the estimated net present value of the long-term cost of the Guarantee to the Federal Government. Credit Enhancements are considered in the context of the structure and circumstances of each Guarantee Application;

(C) *On-Site Review:* The CDFI Fund may request an on-site review of an Eligible CDFI to confirm materials provided in the written application, as well as to gather additional due diligence information. The on-site reviews are a critical component of the application review process and will generally be conducted for all applicants not regulated by an Appropriate Federal Banking Agency or Appropriate State Agency. The CDFI Fund reserves the right to conduct a site visit of regulated entities, in its sole discretion.

(D) *Secondary Loan Asset Classes:* Eligible CDFIs that propose to use funds for new products or lines of business must demonstrate that they have the organizational capacity to manage such activities in a prudent manner. Failure to demonstrate such organizational capacity may be factored into the consideration of Asset Quality or Management criteria as listed above in this section.

3. *Credit subsidy cost.* The credit subsidy cost is the net present value of the estimated long-term cost of the Guarantee to the Federal Government as determined under the applicable provisions of the Federal Credit Reform Act of 1990, as amended (FCRA). Treasury has not received appropriated amounts from Congress to cover the credit subsidy costs associated with the Guarantees issued pursuant to this NOGA. In accordance with FCRA, Treasury must consult with, and obtain the approval of, OMB for Treasury's calculation of the credit subsidy cost of each Guarantee prior to entering into any Agreement to Guarantee.

E. *Guarantee approval.*

1. The Guarantor, in the Guarantor's sole discretion, may approve a Guarantee, in consideration of the recommendation from the CDFI Bond Guarantee Program's Credit Review Board and/or based on the merits of the Guarantee Application. The Guarantor shall approve or deny a Guarantee Application no later than 90 days after the date the Guarantee Application has been advanced for Substantive Review.

2. The Guarantor reserves the right to approve Guarantees, in whole or in part, in response to any, all, or none of the Guarantee Applications submitted in response to this NOGA. The Guarantor also reserves the right to approve Guarantees in amounts that are less than requested in a Guarantee Application. Pursuant to the Regulations at 12 CFR 1808.504(c), the Guarantor may limit the number of Guarantees made per year to ensure that a sufficient examination of Guarantee Applications is conducted.

3. The CDFI Fund will notify the Qualified Issuer in writing of the Guarantor's approval or disapproval of a Guarantee Application. If approved for a Guarantee, the Qualified Issuer will enter into an Agreement to Guarantee, which will include terms and conditions that will be signed by each Eligible CDFI. Following the execution of the Agreement to Guarantee, the parties will proceed to the Bond Issue Date, when the parties will sign the remaining Bond Documents.

4. The Guarantee shall not be effective until the Guarantor signs and delivers the Guarantee.

F. *Guarantee denial.* The Guarantor, in the Guarantor's sole discretion, may deny a Guarantee, in consideration of the recommendation from the Credit Review Board and/or based on the merits of the Guarantee Application. In addition, the Guarantor reserves the right to deny a Guarantee Application if information (including administrative errors) comes to the Guarantor's attention that adversely affects the Qualified Issuer's eligibility, adversely affects the evaluation or scoring of an Application, or indicates fraud or mismanagement on the part of the Qualified Issuer, Program Administrator, Servicer, and/or Eligible CDFIs. Further, if the Guarantor determines that any portion of the Guarantee Application is incorrect in any material respect, the Guarantor reserves the right, in the Guarantor's sole discretion, to deny the Application.

V. Guarantee Administration

A. *Pricing information.* Bond Loans will be priced based upon the underlying Bond issued by the Qualified Issuer and purchased by the Federal Financing Bank (FFB or Bond Purchaser). The FFB will set the liquidity premium at the time of the Bond Issue Date, based on the duration and maturity of the Bonds according to the FFB's lending policies (*www.treasury.gov/ffb*). Liquidity premiums will be charged in increments of 1/8th of a percent (i.e., 12.5 basis points).

B. *Fees and other payments.* The following table includes some of the fees that may be applicable to Qualified Issuers and Eligible CDFIs after approval of a Guarantee of a Bond Issue, as well as Risk-Share Pool funding, prepayment penalties or discounts, and Credit Enhancements. The table is not exhaustive; additional fees payable to the CDFI Fund or other parties may apply.

Fee	Description
Agency Administrative Fee	Payable annually to the CDFI Fund by the Qualified Issuer. Equal to 10 basis points on the amount of the unpaid principal of the Bond Issue.
Bond Issuance Fees	Amounts paid by an Eligible CDFI for reasonable and appropriate expenses, administrative costs, and fees for services in connection with the issuance of the Bond (but not including the Agency Administrative Fee) and the making of the Bond Loan. Bond Issuance Fees negotiated between the Qualified Issuer and the Eligible CDFI. Up of 1% of Bond Loan Proceeds may be used to finance the Bond Issuance Fee.
Servicer fee	The fees paid by the Eligible CDFI to the Qualified Issuer's Servicer. Servicer fees negotiated between the Qualified Issuer and the Eligible CDFI.
Program Administrator fee	The fees paid by the Eligible CDFI to the Qualified Issuer's Program Administrator. Program Administrator fees negotiated between the Qualified Issuer and the Eligible CDFI.
Master Servicer/Trustee fee	The fees paid by the Qualified Issuer and the Eligible CDFI to the Master Servicer/Trustee to carry out the responsibilities of the Bond Trust Indenture. In general, the Master Servicer/Trustee fee is the greater of 16 basis points per annum or $10,000 per month once the Bond Loans are fully disbursed. Any special servicing costs and resolution or liquidation fees due to a Bond Loan default are the responsibility of the Eligible CDFI. Please see the template legal documents at *www.cdfifund.gov/bond* for more specific information.
Risk-Share Pool funding	The funds paid by the Eligible CDFIs to cover Risk-Share Pool requirements; capitalized by pro rata payments equal to 3% of the amount disbursed on the Bond from all Eligible CDFIs within the Bond Issue.
Prepayment penalties or discounts	Prepayment penalties or discounts may be determined by the FFB at the time of prepayment.
Credit Enhancements	Pledges made to enhance the quality of a Bond and/or Bond Loan. Credit Enhancements include, but are not limited to, the Principal Loss Collateral Provision and letters of credit.

C. *Annual assessment.* In accordance with 12 CFR 1808.302(f), each year, beginning on the one year anniversary of the Bond Issue Date (and every year thereafter for the term of the Bond Issue), each Qualified Issuer must demonstrate that not less than 100 percent of the principal amount of the Guaranteed Bonds currently disbursed and outstanding has been used to make loans to Eligible CDFIs for Eligible Purposes. If a Qualified Issuer fails to demonstrate this requirement within the 90 days after the anniversary of the Bond Issue Date, the Qualified Issuer must repay on that portion of Bonds necessary to bring the Bonds that remain outstanding after such repayment into compliance with the 100 percent requirement above.

D. *Secondary Loan Requirements.* In accordance with the Regulations, Eligible CDFIs must finance or refinance Secondary Loans for Eligible Purposes (not including loan loss reserves) that align with Secondary Loan Requirements. The Secondary Loan Requirements are found on the CDFI Fund's Web site at *www.cdfifund.gov*. Applicants should become familiar with the published Secondary Loan Requirements. Secondary Loan Requirements are classified by asset class and are subject to a Secondary Loan commitment process managed by the Qualified Issuer.

Eligible CDFIs must execute Secondary Loans documents (in the form of loan agreements and promissory notes) with Secondary Borrowers as follows: (i) Not later than twelve (12) months after the Bond Issue Date, Secondary Loan documents representing at least fifty percent (50%) of the Bond Loan proceeds allocated for Secondary Loans, and (ii) not later than twenty-four (24) months after the Bond Issue Date, Secondary Loan documents representing one hundred percent (100%) of the Bond Loan proceeds allocated for Secondary Loans. In the event that the Eligible CDFI does not comply with the foregoing requirements of clauses (i) and (ii) of this paragraph, the available Bond Loan proceeds at the end of the applicable period shall be reduced by an amount equal to the difference between the amount required by clauses (i) and (ii) minus the amount previously committed to the Secondary Loans in the applicable period. Secondary Loans shall carry loan maturities suitable to the loan purpose and consistent with loan-to-value requirements set forth in the Secondary Loan Requirements. Secondary Loan maturities shall not exceed the corresponding Bond or Bond Loan maturity date. It is the expectation of the CDFI Fund that such interest rates will be reasonable based on the borrower and loan characteristics.

E. *Secondary Loan collateral requirements.*

1. The Regulations state that Secondary Loans must be secured by a first lien of the Eligible CDFI on pledged collateral, in accordance with the Regulations (at 12 CFR 1808.307(f)) and within certain parameters. Examples of acceptable forms of collateral may include, but are not limited to: Real property (including land and structures); machinery, equipment and movables; cash and cash equivalents; accounts receivable; letters of credit; inventory; fixtures; contracted revenue streams from non-Federal counterparties, provided the Secondary Borrower pledges all assets, rights and interests necessary to generate such revenue stream; and a Principal Loss Collateral Provision. Intangible assets, such as customer relationships, intellectual property rights, and to-be-constructed real estate improvements, are not acceptable forms of collateral.

2. The Regulations require that Bond Loans must be secured by a first lien on a collateral assignment of Secondary Loans, and further that the Secondary Loans must be secured by a first lien or parity lien on acceptable collateral.

3. Valuation of the collateral pledged by the Secondary Borrower must be based on the Eligible CDFI's credit policy guidelines and must conform to the standards set forth in the Uniform Standards of Professional Appraisal Practice (USPAP).

4. Independent third-party appraisals are required for the following collateral: Real estate; fixtures, machinery and equipment, and movables stock valued in excess of $250,000; contracted revenue stream from non-Federal creditworthy counterparties. Secondary Loan collateral shall be valued using the cost approach, net of depreciation and shall be required for the following: Accounts receivable; machinery, equipment and movables; and fixtures.

F. *Qualified Issuer approval of Eligible CDFIs.* The Qualified Issuer shall not approve any Bond Loans to an Eligible CDFI where the Qualified Issuer has actual knowledge, based upon reasonable inquiry, that within the past five (5) years the Eligible CDFI: (i) Has been delinquent on any payment obligation (except upon a demonstration by the Qualified Issuer satisfactory to

the CDFI Fund that the delinquency does not affect the Eligible CDFI's creditworthiness), or has defaulted and failed to cure any other obligation, on a loan or loan agreement previously made under the Act; (ii) has been found by the Qualified Issuer to be in default of any repayment obligation under any Federal program; (iii) is financially insolvent in either the legal or equitable sense; or (iv) is not able to demonstrate that it has the capacity to comply fully with the payment schedule established by the Qualified Issuer.

G. *Credit Enhancements; Principal Loss Collateral Provision.*

1. In order to achieve the statutory zero-credit subsidy constraint of the CDFI Bond Guarantee Program and to avoid a call on the Guarantee, Eligible CDFIs are encouraged to include Credit Enhancements and Principal Loss Collateral Provisions structured to protect the financial interests of the Federal Government.

2. Credit Enhancements may include, but are not limited to, payment guarantees from third parties or Affiliates, lines or letters of credit, or other pledges of financial resources that enhance the Eligible CDFI's ability to make timely interest and principal payments under the Bond Loan.

3. As distinct from Credit Enhancements, Principal Loss Collateral Provisions may be provided in lieu of pledged collateral and in addition to pledged collateral. A Principal Loss Collateral Provision shall be in the form of cash or cash equivalent guarantees in amounts necessary to secure the Eligible CDFI's obligations under the Bond Loan after exercising other remedies for default. For example, a Principal Loss Collateral Provision may include a deficiency guarantee whereby another entity assumes liability after other default remedies have been exercised, and covers the deficiency incurred by the creditor. The Principal Loss Collateral Provision shall, at a minimum, provide for the provision of cash or cash equivalents in an amount that is not less than the difference between the value of the collateral and the amount of the accelerated Bond Loan outstanding.

4. In all cases, acceptable Credit Enhancements or Principal Loss Collateral Provisions shall be proffered by creditworthy providers and shall provide information about the adequacy of the facility in protecting the financial interests of the Federal Government, either directly or indirectly through supporting the financial strength of the Bond Issue. This includes, but is not limited to, the amount and quality of any Credit Enhancements, the financial strength of the provider of the Credit Enhancement, the terms, specific conditions such as renewal options, and any limiting conditions or revocability by the provider of the Credit Enhancement.

5. For Secondary Loans benefitting from a Principal Loss Collateral Provision (e.g., a deficiency guarantee), the entity providing the Principal Loss Collateral Provision must be underwritten based on the same criteria as if the Secondary Loan were being made directly to that entity with the exception that the guarantee need not be collateralized.

6. If the Principal Loss Collateral Provision is provided by a financial institution that is regulated by an Appropriate Federal Banking Agency or an Appropriate State Agency, the guaranteeing institution must demonstrate performance of financially sound business practices relative to the industry norm for providers of collateral enhancements as evidenced by reports of Appropriate Federal Banking Agencies, Appropriate State Agencies, and auditors, as appropriate.

H. *Reporting requirements.*

1. *General.* Qualified Issuers and Eligible CDFIs that participate in the Bond Guarantee Program will be required to execute and deliver at closing legal agreements including the Agreement to Guarantee, the Bond Trust Indenture, and the Bond Loan Agreement, among others. The forms of these documents, containing terms and conditions and covenants over use of proceeds, loan commitments, advances, disbursements, principal and interest payments, program fees and accounts, Secondary Loans, financial condition and information reporting and other matters of the Qualified Issuer, Master Servicer/Trustee, and Eligible CDFIs, will be published and accessible on the CDFI Fund's Web site or sent to the Qualified Issuer by other means.

2. *Reports.*

(a) In general, as required pursuant to the Regulations at 12 CFR 1808.619, the CDFI Fund will collect information from each Qualified Issuer which may include, but will not be limited to: (i) Quarterly and annual financial reports and data (including an OMB A–133 audit, as applicable) for the purpose of monitoring the financial health, ratios and covenants of Eligible CDFIs that include asset quality (non-performing assets, loan loss reserves, and net charge-off ratios), liquidity (current ratio, working capital, and operating liquidity ratio), solvency (capital ratio, self-sufficiency, fixed charge, leverage, and debt service coverage ratios); (ii) annual reports as to the compliance of the Qualified Issuer and Eligible CDFIs with the Regulations and specific requirements of the Bond Documents; (iii) monthly reports on uses of Bond Loan proceeds and Secondary Loan proceeds; (iv) Master Service/Trustee summary of program accounts and transactions for each Bond Issue; (v) Secondary Loan certifications describing Eligible CDFI lending, collateral valuation, and eligibility; (vi) financial data on Secondary Loans to monitor underlying collateral, gauge overall risk exposure across asset classes, and assess loan performance, quality, and payment history; (vii) annual certifications of compliance with program requirements; (viii) material event disclosures including any reports of Eligible CDFI management and/or organizational changes; (ix) annual updates to the Capital Distribution Plan (as described below); (x) supplements and/or clarifications to correct reporting errors (as applicable); (xi) project level reports to understand overall program impact and the manner in which Bond proceeds are deployed for Eligible Community or Economic Development Purposes; and (xii) such other information that the CDFI Fund and/or the Bond Purchaser may require, including but not limited to racial and ethnic data showing the extent to which members of minority groups are beneficiaries of the CDFI Bond Guarantee Program, to extent permissible by law.

(b) Qualified Issuers receiving a Guarantee shall submit annual updates to the approved Capital Distribution Plan, including an updated Proposed Sources and Uses of Funds for each Eligible CDFI, noting any deviation from the original baseline with regards to both timing and allocation of funding among Secondary Loan asset classes. The Qualified Issuer shall also submit a narrative, no more than five (5) pages in length for each Eligible CDFI, describing the Eligible CDFI's capacity to manage its Bond Loan. The narrative shall address any Notification of Material Events and relevant information concerning the Eligible CDFI's management information systems, personnel, executive leadership or board members, as well as financial capacity. The narrative shall also describe how such changes affect the Eligible CDFI's ability to generate impacts in Low-Income or Underserved Rural Areas. Any Eligible CDFI seeking to expand the allowable Secondary Loan asset classes beyond what was approved by the Bond Guarantee Program's Credit Review Board or make other deviations that could potentially result in a

modification, as that term is defined in OMB Circulars A–11 and A–129, must receive approval from the CDFI Fund before the Eligible CDFI can begin to enact the proposed changes. The CDFI Fund will consider whether the Eligible CDFI possesses or has acquired the appropriate systems, personnel, leadership, and financial capacity to implement the revised Capital Distribution Plan. The CDFI Fund will also consider whether these changes assist the Eligible CDFI in generating impacts in Low-Income or Underserved Rural Areas. Such changes will be reviewed by the CDFI Bond Guarantee Program and presented to the Credit Review Board for approval, and appropriate consultation will be made with OMB to ensure compliance with OMB Circulars A–11 and A–129, prior to notifying the Eligible CDFI if such changes are acceptable under the terms of the Bond Loan Agreement. An Eligible CDFI may request such an update to their Capital Distribution Plan prior to Bond Issue Closing, and thereafter may only request such an update once per the CDFI's fiscal year.

(c) Detailed information on specific reporting requirements and the format, frequency, and methods by which this information will be transmitted to the CDFI Fund will be provided to Qualified Issuers, Program Administrators, Servicers, and Eligible CDFIs through the Bond Loan Agreement and a combination of webinar trainings and/or scheduled outreach sessions. Reporting requirements will be enforced through the Agreement to Guarantee and the Bond Loan Agreement, and will be assigned a valid OMB control number pursuant to the Paperwork Reduction Act.

(d) Each Qualified Issuer will be responsible for the timely and complete submission of the annual reporting documents, including such information that must be provided by other entities such as Eligible CDFIs or Secondary Borrowers. If such other entities are required to provide annual report information or documentation, or other documentation that the CDFI Fund may require, the Qualified Issuer will be responsible for ensuring that the information is submitted timely and complete. Notwithstanding the foregoing, the CDFI Fund reserves the right to contact such entities and require that additional information and documentation be provided directly to the CDFI Fund.

(e) The CDFI Fund will use the aforementioned information to monitor compliance with the requirements set forth in the Agreement to Guarantee and to assess the impact of the CDFI Bond Guarantee Program.

(f) The CDFI Fund reserves the right, in its sole discretion, to modify its reporting requirements if it determines it to be appropriate and necessary; however, such reporting requirements will be modified only after notice to Qualified Issuers. Additional information about reporting requirements pursuant to this NOGA and the Bond Documents will be subject to the Paperwork Reduction Act.

3. *Accounting.*

(a) In general, the CDFI Fund will require each Qualified Issuer and Eligible CDFI to account for and track the use of Bond Proceeds and Bond Loan proceeds. This means that for every dollar of Bond Proceeds and received from the Bond Purchaser, the Qualified Issuer is required to inform the CDFI Fund of its uses, including Bond Loan proceeds. This will require Qualified Issuers and Eligible CDFIs to establish separate administrative and accounting controls, subject to the applicable OMB Circulars.

(b) The CDFI Fund will provide guidance to Qualified Issuers outlining the format and content of the information that is to be provided on an annual basis, outlining and describing how the Bond Proceeds and Bond Loan proceeds were used.

VI. Agency Contacts

A. The CDFI Fund will respond to questions and provide support concerning this NOGA, the Qualified Issuer Application and the Guarantee Application between the hours of 9:00 a.m. and 5:00 p.m. ET, starting with the date of the publication of this NOGA. The final date to submit questions is June 18, 2014. Applications and other information regarding the CDFI Fund and its programs may be obtained from the CDFI Fund's Web site at *http://www.cdfifund.gov.* The CDFI Fund will post on its Web site responses to questions of general applicability regarding the CDFI Bond Guarantee Program.

B. The CDFI Fund's contact information is as follows:

TABLE 2—CONTACT INFORMATION

Type of question	Telephone number (not toll free)	Email addresses
CDFI Bond Guarantee Program	(202) 653–0421 Option 5	*bgp@cdfi.treas.gov.*
CDFI Certification	(202) 653–0423	*ccme@cdfi.treas.gov.*
Compliance Monitoring and Evaluation	(202) 653–0423	*ccme@cdfi.treas.gov.*
Information Technology Support	(202) 653–0422	*ithelpdesk@cdfi.treas.gov.*

C. *Communication with the CDFI Fund.* The CDFI Fund will use the myCDFIFund Internet interface to communicate with applicants, Qualified Issuers, Program Administrators, Servicers, Certified CDFIs and Eligible CDFIs, using the contact information maintained in their respective myCDFIFund accounts. Therefore, each such entity must maintain accurate contact information (including contact person and authorized representative, email addresses, fax numbers, phone numbers, and office addresses) in its respective myCDFIFund account. For more information about myCDFIFund (which includes information about the CDFI Fund's Community Investment Impact System), please see the Help documents posted at *http://www.cdfifund.gov/ciis/accessingciis.pdf.*

VII. Information Sessions and Outreach

The CDFI Fund may conduct webcasts, webinars, or information sessions for organizations that are considering applying to, or are interested in learning about, the CDFI Bond Guarantee Program. For further information, please visit the CDFI Fund's Web site at *http://www.cdfifund.gov.*

Authority: Pub. L. 111–240; 12 U.S.C. 4701, *et seq.;* 12 CFR part 1808.

Dated: May 8, 2014.

Dennis Nolan,

Deputy Director, Community Development Financial Institutions Fund.

[FR Doc. 2014–10950 Filed 5–12–14; 8:45 am]

BILLING CODE 4810–70–P

U.S.-CHINA ECONOMIC AND SECURITY REVIEW COMMISSION

Notice of Open Public Hearing

AGENCY: U.S.-China Economic and Security Review Commission.

ACTION: Notice of open public hearing—May 15, 2014, Washington, DC.

SUMMARY: Notice is hereby given of the following hearing of the U.S.-China Economic and Security Review Commission.

Name: Dennis C. Shea, Chairman of the U.S.-China Economic and Security Review Commission. The Commission is mandated by Congress to investigate, assess, and report to Congress annually on ''the national security implications of the economic relationship between the United States and the People's Republic of China.'' Pursuant to this mandate, the Commission will hold a public hearing in Washington, DC on May 15, 2014, ''Stability in China: Lessons from Tiananmen and Implications for the United States.''

Background: This is the sixth public hearing the Commission will hold during its 2014 report cycle to collect input from academic, industry, and government experts on national security implications of the U.S. bilateral trade and economic relationship with China. This hearing will examine the legacy of the Tiananmen Square Massacre and the underlying economic, political, and social tensions that cause instability in China today, as well as the implications of these challenges for U.S. economic and security interests. The hearing will also assess China's response to its internal security challenges, and the use of media and information controls to contain domestic unrest and manage public opinion. The hearing will be co-chaired by Dr. Larry M. Wortzel and Commissioner Carolyn Bartholomew. Any interested party may file a written statement by May 15, 2014, by mailing to the contact below. A portion of each panel will include a question and answer period between the Commissioners and the witnesses.

Location, Date and Time: Room 608, Dirksen Senate Office Building, 1st Street Southeast, Washington, DC. Thursday, May 15, 2014, 8:30 a.m.–3:15 p.m. Eastern Time. A detailed agenda for the hearing will be available on Commission's Web site at *www.uscc.gov.* Also, please check our Web site for possible changes to the hearing schedule. Reservations are not required to attend the hearing.

FOR FURTHER INFORMATION CONTACT: Any member of the public seeking further information concerning the hearing should contact Reed Eckhold, 444 North Capitol Street NW., Suite 602, Washington, DC 20001; phone: 202–624–1496, or via email at *reckhold@uscc.gov.* Reservations are not required to attend the hearing.

Authority: Congress created the U.S.-China Economic and Security Review Commission in 2000 in the National Defense Authorization Act (Pub. L. 106–398), as amended by Division P of the Consolidated Appropriations Resolution, 2003 (Pub. L. 108–7), as amended by Public Law 109–108 (November 22, 2005).

Dated: May 7, 2014.

Michael Danis,

Executive Director, U.S.-China Economic and Security Review Commission.

[FR Doc. 2014–10878 Filed 5–12–14; 8:45 am]

BILLING CODE 1137–00–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0605]

Agency Information Collection (Application for Accreditation as a Claims Agent or Attorney) Under OMB Review

AGENCY: Office of the General Counsel, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3521), this notice announces that the Office of the General Counsel, Department of Veterans Affairs (VA), has submitted 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; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before June 12, 2014.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov,* or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW., Washington, DC 20503 or sent through electronic mail to *oira_submission@omb.eop.gov.* Please refer to ''OMB Control No. 2900–0605'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Crystal Rennie, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 632–7492 or email *crystal.rennie@va.gov.* Please refer to ''OMB Control No. 2900–0605.''

SUPPLEMENTARY INFORMATION:

Titles:

a. Application for Accreditation as a Claims Agent or Attorney, VA Form 21a.

b. Filing of Representatives' Fee Agreements.

c. Motions for Review of Such Fee Agreements.

OMB Control Number: 2900–0605.

Type of Review: Revision of a currently approved collection.

Abstract: Applicants seeking accreditation as claims agents or attorneys to represent benefits claimants before VA must complete VA Form 21a. The applicant is required to file the application with VA's Office of the General Counsel to establish initial eligibility for accreditation. The information requested is necessary to establish the statutory and regulatory eligibility requirements, e.g., good character and reputation which includes basic identifying information, information concerning past representation, military service, employment, criminal activity and mental health of the applicant. The data is used to determine the applicant's eligibility for accreditation as a claims agent or attorney.

The data collected under Filing of Representatives' Fee Agreements is used to determine whether a fee agreement between claimants and their representative is in compliance with the law governing representation. The data collected under Motions for Review of Such Fee Agreements is used to determine the reasonableness of an agent or attorney fee from a claimant's award of VA benefits.

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 on February 10, 2014, at pages 7743–7744.

Affected Public: Individuals and households.

Estimated Annual Burden:

a. Application for Accreditation as a Claims Agent, VA Form 21a—1,987.50 hours.

b. Filing of Representatives' Fee Agreements—2,500 hours.

c. Motions for Review of Such Fee Agreements—42 hours.

Estimated Average Burden Per Respondent:

a. Application for Accreditation as a Claims Agent or Attorney, VA Form 21a—45 minutes.

b. Filing of Representatives' Fee Agreements—0.2 hour.

c. Motions for Review of Such Fee Agreements—2 hours.

Frequency of Response: On occasion.

Estimated Number of Respondents:

a. Application for Accreditation as a Claims Agent, VA Form 21a—2,650.

b. Filing of Representatives' Fee Agreements—12,000.

c. Motions for Review of Such Fee Agreements—21.

Dated: May 8, 2014.

By direction of the Secretary.

Crystal Rennie,

Department Clearance Officer, Department of Veterans Affairs.

[FR Doc. 2014–10902 Filed 5–12–14; 8:45 am]

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Part II

Department of Energy

10 CFR Parts 429 and 431

Energy Conservation for Certain Industrial Equipment: Alternative Efficiency Determination Methods and Test Procedures for Walk-In Coolers and Walk-In Freezers; Final Rule

DEPARTMENT OF ENERGY

10 CFR Parts 429 and 431

[Docket Number EERE–2011–BT–TP–0024]

RIN 1904–AC46

Energy Conservation for Certain Industrial Equipment: Alternative Efficiency Determination Methods and Test Procedures for Walk-In Coolers and Walk-In Freezers

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

ACTION: Final rule.

SUMMARY: The U.S. Department of Energy (DOE) is revising its regulations related to the use of methods for certifying compliance and reporting ratings in accordance with energy conservation standards as they apply to walk-in coolers and walk-in freezers. These revisions also include a number of clarifications to the relevant test procedure that will serve as the basis for any applicable alternative efficiency determination method that may be used to rate certain walk-in cooler and walk-in freezer components.

DATES: The effective date of this final rule is June 12, 2014. The incorporation by reference of certain standards in this rulemaking was approved by the Director of the Office of the Federal Register as of March 23, 2009 and April 15, 2011.

ADDRESSES: *Docket:* The docket is available for review at *www.regulations.gov,* including **Federal Register** notices, public meeting attendee lists and transcripts, comments, and other supporting documents/materials. All documents in the docket are listed in the *www.regulations.gov* index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure.

A link to the docket Web page can be found at: *http://www.regulations.gov/#!docketDetail;D=EERE-2011-BT-TP-0024.* This Web page contains a link to the docket for this rule on the *www.regulations.gov* site. The *www.regulations.gov* Web page contains simple instructions on how to access all documents, including public comments, in the docket.

For information on how to review the docket, contact Ms. Brenda Edwards at (202) 586–2945 or by email: *Brenda.Edwards@ee.doe.gov.*

FOR FURTHER INFORMATION CONTACT:
Ms. Ashley Armstrong, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, EE–5B, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–6590. Email: *Ashley.Armstrong@ee.doe.gov.*
Mr. Michael Kido, U.S. Department of Energy, Office of the General Counsel, GC–71, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–8145. Email: *Michael.Kido@hq.doe.gov.*

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I. Authority and Background

A. Authority

Title III, Part C of the Energy Policy and Conservation Act of 1975 (''EPCA'' or ''the Act'', Pub. L. 94–163) sets forth a variety of provisions designed to improve energy efficiency. The National Energy Conservation Policy Act (''NECPA'', Pub. L. 95–619) amended EPCA and established the energy conservation program for certain industrial equipment. (42 U.S.C. 6311–6317) The Energy Independence and Security Act of 2007 (''EISA 2007'') further amended EPCA to include, among others, two types of industrial equipment that are the subject of today's notice: Walk-in coolers and walk-in freezers (collectively, ''walk-ins'' or ''WICFs''). (42 U.S.C. 6311(1)(G)) Walk-ins are enclosed storage spaces of less than 3,000 square feet that can be walked into and are refrigerated to temperatures above and at or below 32 degrees Fahrenheit, respectively. (42 U.S.C. 6311(20)(A)) This term, by statute, excludes equipment designed for medical, scientific, or research purposes. (42 U.S.C. 6311(20)(B))

Under EPCA, the energy conservation program generally consists of four parts: (1) Testing; (2) labeling; (3) establishing Federal energy conservation standards; and (4) certification and enforcement procedures. The testing requirements consist of test procedures that

manufacturers of covered equipment must use as the basis for making representations about the efficiency of that equipment, including those representations made to DOE that the covered equipment complies with the applicable energy conservation standards adopted pursuant to EPCA. (42 U.S.C. 6314(d)) Similarly, DOE must use these test requirements to determine whether the products comply with the relevant energy conservation standards. See 42 U.S.C. 6313(a) (applying 42 U.S.C. 6295(s) to walk-ins). For certain consumer products and commercial and industrial equipment, DOE's testing regulations currently allow manufacturers to use an alternative efficiency determination method (AEDM), in lieu of actual testing, to simulate the energy consumption or efficiency of certain basic models of covered products and equipment under DOE's test procedure conditions. As explained in further detail below, an AEDM is a computer model or mathematical tool used to help determine the energy efficiency of a particular basic model.

Under 42 U.S.C. 6314, EPCA sets forth the criteria and procedures that DOE must follow when prescribing or amending test procedures for covered products. Included among these criteria is that the prescribed procedure be reasonably designed to produce test results that measure energy efficiency, energy use, or estimated annual operating cost of a covered product during a representative average use cycle or period of use, and must not be unduly burdensome to conduct. (42 U.S.C. 6314(a)(2)) DOE provides the public with an opportunity to comment on a proposal made under section 6314.

B. Background

1. Alternative Efficiency Determination Method

As briefly noted above, AEDMs are computer modeling or mathematical tools that predict the performance of non-tested basic models. They are derived from mathematical models and engineering principles that govern the energy efficiency and energy consumption characteristics of a type of covered equipment. These computer modeling and mathematical tools, when properly developed, can provide a relatively straightforward and reasonably accurate means to predict the energy usage or efficiency characteristics of a basic model of a given covered equipment type. These tools can be useful in reducing a manufacturer's testing burden.

Where authorized by regulation, AEDMs enable manufacturers to rate and certify their basic models by using the projected energy use or energy efficiency results derived from these simulation models. DOE currently permits manufacturers of a few, limited types of expensive or highly customized equipment to use AEDMs when rating and certifying their equipment.

DOE believes other similar equipment that must currently be rated and certified through testing, such as walk-in refrigeration systems, could also be rated and certified through the use of computer or mathematical modeling. Consequently, to examine whether AEDM usage would be appropriate for walk-in refrigeration systems, DOE sought comment on this topic and other related issues in a Request for Information (RFI). See 76 FR 21673 (April 18, 2011).

DOE subsequently issued a Notice of Proposed Rulemaking (NOPR) that proposed to expand and revise DOE's existing AEDM requirements for certain commercial equipment covered under EPCA. 77 FR 32038 (May 31, 2012). Among other things, the May 2012 NOPR proposed to allow manufacturers of walk-in refrigeration systems to use AEDMs when certifying the energy use or energy efficiency of basic models of equipment in lieu of testing.

Subsequent to the May 2012 NOPR's publication, the Appliance Standards and Rulemaking Federal Advisory Committee (ASRAC) unanimously decided to form a working group (''Working Group'') to engage in a negotiated rulemaking effort on the certification of commercial heating, ventilating, air conditioning (HVAC), water heating (WH), and refrigeration equipment. During the Working Group's first meeting on April 30, 2013, Working Group members voted to expand the scope of its efforts to include developing methods of estimating equipment performance based on AEDM simulations for commercial HVAC, WH, and refrigeration equipment. The issues discussed by the various participants during the negotiations with DOE were similar to those raised by the commenters in response to the May 2012 NOPR, which included AEDM validation and DOE verification of ratings derived using an AEDM. As a result of these negotiations and further consideration of written comments submitted in response to DOE's supplemental notice of proposed rulemaking (SNOPR) regarding the treatment of commercial HVAC, WH, and refrigeration equipment, see 78 FR 62472 (Oct. 22, 2013), DOE adopted the Working Group's AEDM recommendation with respect to this group of equipment. 78 FR 79579 (Dec. 31, 2013).

To comprehensively address the specific issues related to walk-ins, DOE published an SNOPR that proposed to align DOE's AEDM regulations by allowing the use of AEDMs when certifying the energy efficiency performance of walk-in refrigeration equipment in a manner similar to that which was recently established for commercial HVAC, refrigeration, and WH equipment. See 79 FR 9817 (Feb. 20, 2014). This approach, which was recommended by the Working Group, would help DOE establish a uniform, systematic, and fair approach to the use of these types of modeling techniques that will enable DOE to ensure that products in the marketplace are correctly rated—irrespective of whether they are subject to actual physical testing or are rated using modeling—without unnecessarily burdening regulated entities. DOE reopened the comment period for the February 20, 2014 SNOPR to allow interested parties additional time to provide the Department with comments, data, and information. See 79 FR 19844 (April 10, 2014). DOE did not receive any additional timely submitted comments in response to the reopened comment period. Today's notice is the culmination of DOE's efforts regarding AEDMs for walk-in coolers and freezers that were initiated with the May 2012 NOPR.

2. Test Procedures for WICF Refrigeration Equipment

A walk-in's refrigeration system performs the mechanical work necessary to cool the interior space of a walk-in. The system typically comprises two separate primary components, a condenser/compressor (''condensing unit'') and an expansion valve/evaporator (''unit cooler''). DOE's regulations at 10 CFR 431.304, Uniform test method for the measurement of energy consumption of walk-in coolers and walk-in freezers, incorporate by reference AHRI Standard 1250–2009, ''2009 Standard for Performance Rating of Walk-in Coolers and Freezers'' (AHRI 1250–2009) as the testing method for walk-in refrigeration systems. 10 CFR 431.304(b)(9). AHRI 1250–2009 establishes methods to follow when testing a complete refrigeration system (the ''matched system'' test), as well as separate methods to use for testing the unit cooler and condensing unit of a refrigeration system individually and then calculating a combined system rating (the ''mix-match'' test). AHRI 1250–2009 also contains standard rating

conditions for: Cooler and freezer systems; systems where the condenser is located either indoors or outdoors; and systems with single-speed, two-speed, or variable-speed compressors. AHRI 1250–2009 also establishes a method for testing and rating unit coolers that are connected to a multiplex condensing system such as those typically found in a supermarket. The rating produced by the AHRI 1250–2009 test procedure is an annual walk-in energy factor (AWEF), defined as ''a ratio of the total heat, not including the heat generated by the operation of refrigeration systems, removed, in Btu [British thermal units], from a walk-in box during one year period of usage for refrigeration to the total energy input of refrigeration systems, in watt-hours, during the same period.'' AHRI 1250–2009, at sec. 3.1.

DOE recently proposed energy conservation standards for walk-ins. See 78 FR 55781 (Sept. 11, 2013) (September 2013 standards NOPR). In that notice, DOE proposed standards for complete walk-in refrigeration systems that would require the ratings for the refrigeration system to be derived using either the matched system or mix-match tests described above. DOE also proposed standards for unit coolers connected to a multiplex system, based on the unit cooler rating method described above. Responding to the NOPR, several interested parties discussed the concept of establishing separate standards for the unit cooler and condensing unit of a walk-in as a means to address the fundamental problem of how one manufacturer (e.g., unit cooler manufacturer) would be able to rate its equipment in the absence of knowing which equipment (e.g., condensing unit) would be matched with its own equipment. Performance characteristics of both the unit cooler and condensing unit are needed in order to rate the refrigeration system's performance under the methodology in AHRI 1250–2009.

In light of that discussion and the fact that unit coolers and condensing units are often sold separately or produced by different manufacturers, DOE proposed in the February 2014 SNOPR to adopt a methodology that would account for the issue noted above by relying on elements of AHRI 1250–2009, which includes a method to test both components separately (i.e., the mix-match test method). The proposed method would require the manufacturer of either the unit cooler or condensing unit, if sold separately, to test and certify compliance of a nominal refrigeration system with DOE's standards and make representations of a WICF refrigeration system. Under the proposal, manufacturers of a complete WICF refrigeration system could continue to develop a system rating for the purposes of certifying compliance with DOE's standards and making energy efficiency representations of the WICF refrigeration system. Furthermore, as DOE noted in the February 2014 SNOPR, in reviewing AHRI 1250–2009 and conducting limited testing on a WICF refrigeration system at a third-party laboratory to investigate the AEDM validation approach, DOE had discovered several issues in the refrigeration test procedures that required clarification and/or created unnecessary test burden. 79 FR at 9820. To simplify the procedure and to clarify certain aspects, DOE proposed alternate language to certain requirements contained in AHRI 1250–2009 that DOE's test procedure currently incorporates by reference.

3. Sampling Plan

In order to determine a rating for certifying compliance or making energy use representations, DOE requires manufacturers to test each basic model in accordance with the applicable DOE test procedure and apply the appropriate sampling plan. As part of the February 2014 SNOPR, DOE proposed a sampling plan for walk-ins consistent with other commercial equipment regulated under EPCA.

4. Test Procedures and Prescriptive Requirements for WICF Foam Panel R-Value

EPCA mandates prescriptive requirements for the thermal resistance of walk-in panels: Wall, ceiling, and doors must have an insulation value of at least R–25 for coolers and R–32 for freezers. (42 U.S.C. 6313(f)(1)(C)) EPCA also requires the use of ASTM C518–04, *Standard Test Method for Thermal Steady-State Thermal Transmission Properties by Means of the Heat Flow Meter Apparatus* (''ASTM C518–04'') to measure the insulation thermal resistance of a panel. (42 U.S.C. 6314(a)(9)(A)) The walk-in test procedure at 10 CFR 431.304 incorporates ASTM C518–04 by reference. This reference standard is the method by which thermal conductivity (the ''K factor'') of a walk-in panel is measured; the R-Value of the panel is then determined by multiplying 1/K (the reciprocal of K) by the thickness of the panel. The R-Value of a freezer panel is determined at a mean insulation foam temperature of 20 degrees Fahrenheit and the R-Value of a cooler panel is determined at a mean insulation foam temperature of 55 degrees Fahrenheit. (42 U.S.C. 6314(a)(9)(A)(iii) and (iv)) The regulations also currently require manufacturers to use the procedure detailed in 10 CFR 431.304(b) when certifying compliance with the panel energy conservation standards until January 1, 2015. Manufacturers must use the procedure in 10 CFR 431.304(c) when making representations of energy efficiency currently and when certifying compliance starting on January 1, 2015. In the February 2014 SNOPR, DOE proposed modifications to the test sample preparation procedures incorporated from ASTM C518–04 in both procedures to improve measurement accuracy.

5. Performance-Based Test Procedures for Energy Consumption of Envelope Components

In 10 CFR Part 431, Subpart R, Appendix A, DOE lays out a method for measuring performance-based efficiency metrics for certain WICF envelope components. This method draws from several existing industry test methods by incorporating by reference ASTM C1363–05 *Standard Test Method for Thermal Performance of Building Materials and Envelope Assemblies by Means of a Hot Box Apparatus* and *Annex C Determination of the aged values of thermal resistance and thermal conductivity* from both DIN EN 13164 and DIN EN 13165 (two European Union-developed testing protocols) for measuring the energy consumption of WICF floor and non-floor panels. Appendix A also incorporates NFRC 100–2010[E0A1] *Procedure for Determining Fenestration Product U-factors* for determining the energy use of walk-in display and non-display doors. In the February 2014 SNOPR, DOE proposed modifying (1) the test procedures for WICF floor and non-floor panels to address comments received from stakeholders during the standards rulemaking and (2) the WICF display and non-display door test procedure to improve the clarity of the test method.

II. Summary of the Final Rule

Today's final rule comprises six key elements.

First, the Department will allow WICF refrigeration manufacturers to use AEDMs to rate and certify their basic models by using the projected energy efficiency derived from these simulation models in lieu of testing. DOE is aligning the validation requirements proposed for WICF refrigeration AEDMs with those that have already been adopted for commercial HVAC, refrigeration, and WH equipment. DOE is adopting this approach because the

cooling and refrigeration systems used by these equipment types operate under similar principles as the refrigeration systems used in walk-ins. This similarity, along with the practical considerations discussed elsewhere in this rule, lend support for applying similar or identical validation requirements for walk-ins as well.

Second, today's final rule adopts an alternative method for testing and rating the WICF refrigeration system for unit coolers and condensing units that are sold alone. Specifically, unit cooler manufacturers who distribute a unit cooler as a separate component must rate that cooler as though it were to be connected to a multiplex system and must comply with any applicable standard DOE may establish for a unit cooler connected to a multiplex system. Similarly, manufacturers who distribute a condensing unit as a separate component must use the nominal values for unit coolers, in lieu of actual unit cooler test data, when calculating AWEF using the mix-match rating method in AHRI 1250. Consistent with this methodology and pending the outcome of the standards rulemaking, DOE would consider modifications to the certification requirements based on the following approach:

(1) a manufacturer that only produces unit coolers would use the test method (''Walk-in Unit Cooler Match to Parallel Rack System'' in AHRI 1250, section 7.9) to establish a WICF refrigeration system rating for each basic model, and the unit cooler manufacturer would certify the compliance of each unit cooler model as a component of a WICF refrigeration system basic model;

(2) a manufacturer that only produces condensing units would test each condensing unit and combine it with the unit cooler nominal values adopted in today's final rule to establish a WICF refrigeration system rating for each basic model, and the condensing unit manufacturer would certify the compliance of each condensing unit model as a component of a WICF refrigeration system basic model; or

(3) a manufacturer that produces both unit cooler basic models and condensing unit basic models that are marketed and sold as a matched system would use the test method in AHRI 1250–2009 to test the unit cooler and the condensing unit as a matched system to obtain a WICF refrigeration system rating for each matched system it produces and then certify compliance, except where both components have been previously rated and certified separately. In this case, the manufacturer need not test and certify the matched system unless the manufacturer wishes to represent the matched system efficiency as being higher than the efficiency of either component.

Third, DOE is adopting the following modifications to the test procedure for WICF refrigeration components:

—Clarifying the defrost test procedure;
—Offering an alternative method for calculating the defrost energy and heat load of a system with electric defrost in lieu of a frosted coil test;
—Adding a method for calculating defrost energy and heat load of a system with hot gas defrost;
—Changing the minimum fan speed and duty cycle during the off-cycle evaporator fan test;
—Removing the refrigerant oil and refrigerant composition analysis testing requirements;
—Clarifying and modifying the temperature measurement requirements to reduce testing burden while ensuring accuracy;
—Adding a test condition tolerance for electrical power frequency and removing the test condition tolerance for air temperature leaving the unit;
—Quantifying the requirements for insulating refrigerant lines;
—Clarifying piping length requirement;
—Bringing consistency between the list of tests for unit coolers in Tables 15 and 16 of AHRI 1250–2009, and another similar test method; and
—Clarifying the voltage imbalance for three-phase power.

Fourth, DOE is modifying the current test procedure for measuring the insulation R-Value of WICF panels. (10 CFR 431.304) The current DOE test procedure allows, but does not require, panels to be tested with non-foam facers or protective skins attached. (10 CFR 431.304(b)(5)–(6) and (c)(5)–(6)) Also, the current DOE test procedure allows panel test samples to be up to 4 inches in thickness. (10 CFR 431.304(b)(5) and (c)(5)) The test procedure requires that the R-Value be measured at a mean temperature of 20 degrees Fahrenheit for freezer panels (10 CFR 431.304(b)(3) and (c)(3)) and 55 degrees Fahrenheit for cooler panels (10 CFR 431.304(b)(4) and (c)(4)); however, no tolerance is currently specified for these temperatures. With this final rule, DOE will require test samples to be 1-inch in thickness and without non-foam facers, protective skins, internal non-foam members or edge regions. DOE is also adding flatness and parallelism constraints on the test sample surfaces that contact the hot and cold plates in the heat flow meter apparatus. DOE is also adding a tolerance of ±1 degree Fahrenheit for the mean temperature during panel R-Value testing. DOE believes this clarification will help ensure that the panel testing is conducted in a repeatable and reproducible manner at different laboratories.

Fifth, to enable walk-in manufacturers to make energy use representations, DOE is implementing a sampling plan for walk-ins consistent with other commercial equipment regulated under EPCA.

Finally, in response to manufacturer comments on the September 2013 standards NOPR, DOE is removing the existing performance-based test procedures for WICF floor and non-floor panels (10 CFR Part 431, Subpart R, Appendix A, sections 4.2, 4.3, 5.1, and 5.2). DOE recognizes that these performance-based procedures for WICF floor and non-floor panels are in addition to the prescriptive requirements already established in EPCA for panel insulation R-Values and, therefore, may increase the test burden to manufacturers. This recognition of the overall burdens faced by manufacturers is based in part on the difficulty manufacturers have reportedly had in locating any testing laboratories capable of performing the applicable tests since DOE's issuance of the test procedure in April 2011. See 76 FR 21580. Based on market research, DOE agrees with manufacturers that there are a limited number of laboratories capable of conducting the performance-based procedures for WICF floor and non-floor panels.

All of the changes noted above, along with the appropriate sections of the CFR where these changes appear, are detailed in the summary table below.

TABLE II.1—SUMMARY OF CFR CHANGES

Change	10 CFR section
Allowing manufacturers to use AEDMs to rate WICF refrigeration systems	429.53.
Specific instructions for applying AEDMs to WICF refrigeration systems	429.70(f).
Changes to test procedures and prescriptive requirements for WICF foam panel R-Value	431.304(b)(3)–(6) and 431.304(c)(3)–(6).

TABLE II.1—SUMMARY OF CFR CHANGES—Continued

Change	10 CFR section
Amendments to AHRI 1250–2009 refrigeration system test method, and the panel and door test methods.	431.304(c)(8).
Methods for rating refrigeration components sold separately	431.304(c)(11).
Amendments to performance-based test procedures for energy consumption of envelope components.	431 Subpart R, Appendix A.

III. Discussion

In response to the February 2014 SNOPR, DOE received written comments from 9 interested parties, including manufacturers, trade associations and energy efficiency advocacy groups. Table III.1 lists the entities that commented on that SNOPR and their affiliation. (DOE also re-opened the comment period to allow for additional comments.) These comments are discussed in more detail below, and the full set of comments, including the public meeting transcript, can be found at: *http://www.regulations.gov/#!docketDetail;dct=FR%252BPR%252BN%252BO%252BSR%252BPS;rpp=25;po=0;D=EERE-2011-BT-TP-0024.*

TABLE III.1—INTERESTED PARTIES THAT COMMENTED ON THE FEBRUARY 2014 SNOPR

Commenter	Acronym	Organization type/affiliation	Comment No. (Docket reference)
Air-Conditioning, Heating, and Refrigeration Institute.	AHRI	Industry Trade Group	100
American Council for an Energy-Efficient Economy.	ACEEE	Advocacy Group	98
Appliance Standards Awareness Project, Earthjustice, Natural Resources Defense Council, Alliance to Save Energy, American Council for an Energy Efficient Economy, Northwest Energy Efficiency Alliance, and Northwest Power and Conservation Council.	ASAP, EJ, NRDC, ASE, ACEEE, NEEA, NPCC (ASAP, et al.).	Advocacy Group	99
Bally Refrigerated Boxes, Inc	Bally	Manufacturer	93
California Investor-Owned Utilities: Pacific Gas and Electric Company, Southern California Edison, and San Diego Gas & Electric.	PG&E, SCE, and SDG&E (CA IOUs)	Utility Association	101
Heat Transfer Products Group, LLC	HTPG	Manufacturer	96
Lennox International, Inc	Lennox	Manufacturer	97
National Coil Company	NCC	Manufacturer	95
National Refrigeration & Air Conditioning Canada Corp. (dba KeepRite).	KeepRite	Manufacturer	94

In response to the initial May 2012 NOPR, DOE received written comments from 28 interested parties, including manufacturers, trade associations and advocacy groups. Seven additional interested parties commented during the May 2012 NOPR Public Meeting on June 5, 2012. For reference, Table III.2 lists the entities that commented on the NOPR and their affiliation. These comments were discussed in the February 2014 SNOPR. The full set of comments, including the public meeting transcript, can be found at: *http://www.regulations.gov/#!docketDetail;dct=FR%252BPR%252BN%252BO%252BSR%252BPS;rpp=25;po=0;D=EERE-2011-BT-TP-0024.*

TABLE III.2—INTERESTED PARTIES THAT COMMENTED ON THE MAY 2012 NOPR

Name	Acronym	Organization type/affiliation
AAON, Inc	AAON	Manufacturer.
The ABB Group	ABB	Manufacturer.
Air-Conditioning, Heating, and Refrigeration Institute	AHRI	Industry Trade Group.
Appliance Standards Awareness Project & American Council for an Energy-Efficient Economy.	Joint Comment	Advocacy Group.
Baldor Electric	Baldor Electric	Manufacturer.
Bradford White Corporation	Bradford White	Manufacturer.
Burnham Commercial	Burnham	Manufacturer.
Cooper Power Systems	Cooper	Manufacturer.
Crown Boiler Company	Crown Boiler	Manufacturer.
CrownTonka/ThermalRite/International Cold Storage	CT/TR/ICS	Manufacturer.
Danfoss	Danfoss	Manufacturer.
First Co.	First Co.	Manufacturer.
Goodman Global, Inc	Goodman	Manufacturer.
Heatcraft Refrigeration Products LLC	Heatcraft Refrigeration	Manufacturer.

TABLE III.2—INTERESTED PARTIES THAT COMMENTED ON THE MAY 2012 NOPR—Continued

Name	Acronym	Organization type/affiliation
Hillphoenix, Inc	Hillphoenix	Manufacturer.
Hussmann Corporation	Hussmann	Manufacturer.
Ingersoll Rand	Ingersoll Rand	Manufacturer.
Johnson Controls, Inc	JCI	Manufacturer.
Lennox International, Inc	Lennox	Manufacturer.
Lochinvar, LLC	Lochinvar	Manufacturer.
Mitsubishi Electric	Mitsubishi Electric	Manufacturer.
Modine Manufacturing Company	Modine	Manufacturer.
Mortex Products, Inc	Mortex	Manufacturer.
National Electrical Manufacturers Association	NEMA	Industry Trade Group.
Nidec Motor Corporation	Nidec	Manufacturer.
Nordyne, LLC	Nordyne	Manufacturer.
Rheem Manufacturing Company	Rheem	Manufacturer.
Schneider Electric	SE	Manufacturer.
Southern Store Fixtures, Inc	Southern Store Fixtures	Manufacturer.
Trane	Trane	Manufacturer.
True Manufacturing Co. Inc	True Manufacturing	Manufacturer.
Unico, Inc	Unico	Manufacturer.
United Cool Air	United Cool Air	Manufacturer.
United Technologies Climate, Controls & Security and ITS Carrier	UTC/Carrier	Manufacturer.
Zero Zone, Inc	Zero Zone	Manufacturer

In response to the SNOPR on AEDMs for commercial HVAC, refrigeration and WH equipment, which was published in the **Federal Register** on October 22, 2013, 78 FR 62472, DOE received a comment relevant to this rulemaking from Lennox International, Inc., a manufacturer of HVAC and commercial refrigeration equipment. This comment was addressed in the February 2014 SNOPR. See 79 FR at 9824.

The Department also received relevant comments from 23 interested parties in response to the September 2013 Standards NOPR and related NOPR Public Meeting held on October 9, 2013. For reference, Table III.3 lists the entities that commented on that NOPR and their affiliation. These comments were also discussed in the February 2014 SNOPR. See generally 79 FR at 9822–9837. The full set of comments, including the public meeting transcript, can be found at: *http://www.regulations.gov/#!docketDetail;D=EERE-2008-BT-STD-0015.*

TABLE III.3—INTERESTED PARTIES THAT COMMENTED ON THE SEPTEMBER 2013 STANDARDS NOPR

Name	Acronym	Organization type/affiliation
Air Conditioning Contractors of America	ACCA	Industry Trade Group.
Air-Conditioning, Heating, and Refrigeration Institute	AHRI	Industry Trade Group.
American Council for an Energy Efficient Economy	ACEEE	Advocacy Group.
American Panel Corp	American Panel	Manufacturer.
Appliance Standards Awareness Project	ASAP	Advocacy Group.
Architectural Testing Inc	AT	Third Party Laboratory.
Bally Refrigerated Boxes, Inc	Bally	Manufacturer.
CrownTonka Walk-Ins, ThermalRite & International Cold Storage	CT/TR/ICS	Manufacturer.
Danfoss Group North America	Danfoss	Manufacturer.
Heatcraft Refrigeration Products LLC	Heatcraft	Manufacturer.
Hillphoenix	Hillphoenix	Manufacturer.
HussmanCorporation	HussmanCorp	Manufacturer.
Imperial Brown	IB	Manufacturer.
KysorWarren	Kysor	Manufacturer.
Lennox International Inc	Lennox	Manufacturer.
Louisville Cooler Mfg	Louisville Cooler	Manufacturer.
Manitowoc	Manitowoc	Manufacturer.
National Coil Company	NCC	Manufacturer.
Nor-Lake, Inc	Nor-Lake	Manufacturer.
Northwest Energy Efficiency Alliance & The Northwest Power and Conservation Council.	NEEA, et al.	Advocacy Group.
Pacific Gas & Electric, Southern California Gas, Southern California Edison, San Diego Gas & Electric (Ca. State Independently Owned Utilities).	CA IOU's	Utility.
Thermo-Kool	Thermo-Kool	Manufacturer.
US Cooler Co	US Cooler	Manufacturer.

A. Alternative Efficiency Determination Method

In the May 2012 NOPR, DOE proposed, among other things, to allow the use of AEDMs for WICFs and to establish specific requirements for manufacturer validation [1]—i.e., a

[1] In the May 2012 NOPR, DOE used the term ''substantiation'' to refer to the process

Continued

process in which manufacturers demonstrate the accuracy of an AEDM model—and DOE verification [2]—i.e., a process followed by DOE when verifying the accuracy of an AEDM model—that would apply to this equipment.

As discussed above, ASRAC formed a working group in April 2013 to discuss and negotiate a variety of issues related to the certification provisions for commercial heating, ventilation, and air conditioner (HVAC), refrigeration, and water heater (WH) equipment. Those discussions were expanded to include AEDMs, along with related validation and verification requirements. These negotiations eventually led to the October 2013 SNOPR and the December 2013 final rule that established a series of requirements related to basic model definitions and compliance provisions for commercial HVAC, WH, and refrigeration equipment. See 78 FR 62472 (SNOPR) and 78 FR 79579 (final rule). In the February 2014 SNOPR, DOE proposed to require that the AEDM validation regulations that apply to commercial HVAC, refrigeration, and WH equipment would also apply to AEDMs designed to simulate testing of WICF refrigeration systems as a whole and WICF refrigeration components–i.e., unit coolers and condenser units. DOE is retaining this approach in this final rule and addresses comments on the SNOPR below.

Generally, AHRI commented that while it supports AEDMs for walk-ins, the AEDM provisions for commercial HVAC, WH, and refrigeration equipment may not be applicable to walk-in coolers. AHRI explained that the Working Group was afforded the opportunity to amend basic model definitions and verification procedures for commercial HVAC, WH, and refrigeration equipment over the course of several months of meetings. AHRI asserted that while most of the AEDM recommendations could be applied to walk-ins, this type of equipment is very unique. To better address this subject, AHRI requested additional time to review basic model definitions for WICFs with respect to AEDMs. (AHRI, No. 100 at p. 2) DOE provided an additional comment period. See 79 FR 19844 (April 10, 2014).

In DOE's view, walk-in refrigeration equipment is sufficiently similar to commercial HVAC, WH, and refrigeration equipment to permit the AEDM regulatory framework for AEDMs established by the Working Group to be effectively applied to walk-in refrigeration systems. These systems are similar in operation and design to those refrigeration systems used in both commercial HVAC and refrigeration equipment systems and are commonly found in both walk-in and commercial refrigeration equipment applications. Additionally, similar to commercial refrigeration equipment, walk-in refrigeration systems have a high degree of customization. Permitting the AEDM regulatory framework to be applied to walk-ins, would also likely significantly reduce manufacturer testing burden for this equipment while maintaining a reasonable level of accuracy with respect to energy efficiency.

1. Applicable Equipment

In the February 2014 SNOPR, DOE proposed to allow WICF refrigeration system manufacturers to use AEDMs when rating the performance of this equipment. DOE did not propose to extend this allowance to WICF panel or door manufacturers. WICF panels are relatively simple pieces of equipment and the test results from a basic model of a given panel can be extrapolated to many other panel basic models under the provisions of the test procedure. As for WICF doors, the DOE test procedure already specifies the use of certain modeling techniques that are approved by the National Fenestration Rating Council (NFRC), which, in DOE's view, makes a parallel AEDM provision for these components unnecessary. 77 FR at 32041. Instead, the Department proposed other modifications in the February 2014 SNOPR to the walk-in panel test procedure to reduce the burden faced by panel manufacturers while ensuring the overall accuracy of the efficiency ratings. The modifications to the WICF panel test procedure are outlined in section III.C. DOE did not receive any comments regarding its proposal to extend AEDMs to walk-in refrigeration equipment and therefore is adopting this proposal in today's final rule.

DOE is allowing WICF refrigeration manufacturers to apply an AEDM to a basic model to determine its efficiency, provided that the AEDM meets certain requirements. The AEDM must be derived from a mathematical model that estimates the energy efficiency or consumption characteristics of the basic model as measured by the applicable DOE test procedure. The AEDM must be based on engineering or statistical analysis, computer simulation, modeling, or other type of analytical evaluation of performance data. Finally, the AEDM must be validated according to DOE requirements, which are discussed in section III.A.2 of this rule.

2. Validation

a. Number of Tested Units Required for Validation

In the February 2014 SNOPR, DOE proposed to apply the Working Group's recommendation for AEDM validation requirements to WICFs. That recommendation, which DOE adopted and is applying to those AEDMs used for commercial HVAC, refrigeration, and WH equipment, requires a manufacturer to select a minimum number of models from each validation class to which the AEDM will apply. (Validation classes are groupings of products based on equipment classes but used for AEDM validation.) DOE proposed to apply this same approach to WICF refrigeration systems using the validation classes listed in Table III.4. A unit of each basic model selected would undergo a single test conducted in accordance with the DOE test procedure (or, if applicable, a test procedure waiver issued by DOE) at a manufacturer's testing facility or a third-party testing facility. The test result should be directly compared to the result from the AEDM to determine the AEDM's validity. A manufacturer may develop multiple AEDMs per validation class and each AEDM may span multiple validation classes; however, the minimum number of tests must be maintained per validation class for every AEDM a manufacturer chooses to develop. An AEDM may be applied to any model within the applicable validation classes at the manufacturer's discretion. All documentation of test results for these models, the AEDM results, and subsequent comparisons to the AEDM would be maintained as part of both the test data underlying the certified rating and the AEDM validation package pursuant to 10 CFR 429.71. Specifically, manufacturers must maintain the AEDM, including the mathematical model, statistical analysis or other computer simulations that form the basis of the AEDM. Additionally, DOE requires manufacturers to maintain equipment information, complete test data, and AEDM calculations for each of the units that were used to validate the AEDM. Finally, manufacturers must

manufacturers used to demonstrate that their modeling tool, or AEDM, produced accurate results. See 77 FR at 32040. The Working Group elected to use the term ''validation,'' instead of ''substantiation,'' for this process. DOE clarifies that ''substantiation'' and ''validation'' are synonymous in this context and the Department will use the term ''validation'' henceforth.

[2] In the May 2012 NOPR, DOE used the term ''DOE validation'' to refer to the process DOE used to check that the modeling tool, or AEDM, produced accurate results. See 77 FR at 32046. The Working Group elected to use the ''verification,'', instead of ''DOE validation,'', for this process. DOE clarifies that ''DOE validation'' and ''verification'' are synonymous and the Department will use the term ''verification'' henceforth.

maintain equipment information and calculations for each basic model to which the AEDM was applied.

TABLE III.4—VALIDATION CLASSES PROPOSED IN THE SNOPR

Validation class	Minimum number of distinct models that must be tested
Dedicated Condensing, Medium Temperature, Indoor System	2 Basic Models.
Dedicated Condensing, Medium Temperature, Outdoor System	2 Basic Models.
Dedicated Condensing, Low Temperature, Indoor System	2 Basic Models.
Dedicated Condensing, Low Temperature, Outdoor System	2 Basic Models.
Unit Cooler connected to a Multiplex Condensing Unit, Medium Temperature	2 Basic Models.
Unit Cooler connected to a Multiplex Condensing Unit, Low Temperature	2 Basic Models.
Medium Temperature, Indoor Condensing Unit	2 Basic Models.
Medium Temperature, Outdoor Condensing Unit	2 Basic Models.
Low Temperature, Indoor Condensing Unit	2 Basic Models.
Low Temperature, Outdoor Condensing Unit	2 Basic Models.

ACEEE, Bally, KeepRite, NCC, HTPG, AHRI, and Lennox agreed with DOE's proposal to adopt the Working Group's AEDM validation requirements for WICF AEDMs. (ACEEE, No. 98 at p. 1; Bally, No. 93 at p. 1; KeepRite, No. 94 at p. 1; NCC, No. 95 at p. 1; HTPG, No. 96 at p. 2; AHRI, No. 100 at p. 2; Lennox, No. 97 at p. 3)

Interested parties also made additional recommendations regarding the validation classes. ACEEE suggested explicitly reserving to the Secretary the authority to enlarge the validation sample size if needed. (ACEEE, No. 98 at p. 1) DOE notes that while it is opting not to adopt ACEEE's suggestion, it may revisit and re-evaluate this issue and adjust the sample size as necessary.

Lennox commented that an AEDM that has been validated for outdoor condensing systems should be considered validated for indoor condensing units because these validation classes are very similar except that outdoor condensing units are exposed to a wider range of temperatures. (Lennox, No. 97 at p. 3) DOE agrees with Lennox. The test method in AHRI 1250–2009 for outdoor and indoor condensing units is identical except for the ambient rating conditions. Outdoor condensing units are tested at three ambient temperatures, 35 °F, 59 °F, and 95 °F. The ambient rating temperature for indoor units is 90 °F. DOE believes that this condition is sufficiently similar to the 95 °F outdoor rating condition such that an AEDM validated by testing of an outdoor condensing unit would provide accurate results for indoor condensing units. For this reason, DOE is allowing AEDMs validated for outdoor condensing units to be extended to indoor condensing units. However, DOE is not allowing AEDMs validated with test results from indoor condensing units only to extend to outdoor condensing units. DOE is making this distinction because of concerns that the other two rating conditions for outdoor units—35 °F and 59 °F—could not be adequately verified by testing at a single 90 °F rating condition. Should DOE receive additional data suggesting that such an approach would be adequate, it may consider revisiting this issue in a future rulemaking effort.

The CA IOUs commented that the current validation classes do not account for variation in capacities, compressor type, refrigerant, fan type, airflow volume, and heat exchanger coil materials and configurations. The CA IOUs expressed concern that AEDMs that cover all models in a validation class will be inaccurate and recommended DOE develop guidelines for what a single AEDM can cover. (CA IOUs, No. 101 at pp. 2–3) DOE has decided to retain in the final rule the validation classes proposed in the SNOPR. These validation classes were developed to minimize the test burden on manufacturers, and these classes do not preclude a manufacturer from conducting additional testing to verify its AEDM. Similar concerns were raised during the Commercial Certification Working Group meetings, and the parties agreed that the requirements for validation should be kept to the lowest possible test burden. The Working Group agreed that, because manufacturers are ultimately responsible for ensuring the compliance of their products, manufacturers will ensure that they have sufficient test data to validate their own AEDMs as appropriate for the variety of designs to which they are applying their AEDM. Additionally, DOE may request test data used to validate an AEDM from a manufacturer or conduct verification testing to ensure models are rated correctly. See generally, 10 CFR 429.71 (maintenance of records).

b. Tolerances for Validation

In the February 2014 SNOPR, DOE proposed to apply the Working Group's recommendation for validation tolerances to WICF AEDMs. For energy efficiency metrics, the AEDM results for a model must be less than or equal to 105 percent of the tested results for that same model. Additionally, the AEDM's predicted efficiency for each model must meet or exceed applicable federal energy conservation standards. DOE adopted these same tolerances for commercial HVAC, WH, and refrigeration equipment. See 78 FR 79579 (Dec. 31, 2013).

ACEEE, NCC, HTPG, AHRI, and Lennox supported the Department's proposal to align the validation tolerances for WICF AEDMs to the Working Group's recommended validation tolerances. (ACEEE, No. 98 at p. 1, NCC, No. 95 at p. 2; HTPG, No. 96 at p. 2; AHRI, No. 100 at p. 3; Lennox, No. 97 at p. 3) ACEEE, HTPG, and Lennox also supported DOE's proposal to utilize only one-sided tolerances that would allow manufacturers to rate equipment conservatively. (ACEEE No. 98 at p. 1, HTPG, No. 96 at p. 2; Lennox, No. 97 at p. 3)

Bally and KeepRite commented that DOE's proposed tolerances were too tight. Bally suggested a two-sided validation tolerance of 8 percent be adopted to be consistent with other commercial equipment. KeepRite made a similar suggestion. (Bally, No. 93 at p. 1; KeepRite, No. 94 at p. 1) In DOE's view, a 5 percent one-sided tolerance is more consistent with the AEDM validation tolerances for other types of commercial equipment than the 8 percent two-sided tolerance suggested by Bally and KeepRite. See 78 FR 79579 (Dec. 31, 2013) (applying a 5 percent, one-sided tolerance for all commercial HVAC, WH, and refrigeration equipment). DOE agrees with ACCEE,

HTPG, and Lennox that a one-sided tolerance is preferable because it allows manufacturers to rate equipment conservatively and account for manufacturing and testing variability.

3. Certified Rating

DOE's current regulations provide manufacturers with some flexibility in rating each basic model by allowing the manufacturer the discretion to rate conservatively relative to tested values. The Working Group recommended that, when rating using an AEDM, manufacturers have the same flexibility. Accordingly, the Working Group recommended that, for energy consumption metrics, each model's certified rating must be less than or equal to the applicable Federal standard and greater than or equal to the model's AEDM result. For energy efficiency metrics, each model's certified rating must be less than or equal to the model's AEDM result and greater than or equal to the applicable Federal standard. In the February 2014 SNOPR, DOE proposed to adopt these requirements for WICF refrigeration equipment rated an AEDM. The Department did not receive any comments on its proposal regarding certified ratings and is adopting it in today's final rule.

4. Verification

DOE may randomly select and test a single unit of a basic model pursuant to 10 CFR 429.104, which extends to all DOE covered products, including those certified using an AEDM. As part of the AEDM requirements for commercial HVAC, WH, and refrigeration equipment, at DOE's request, manufacturers must perform simulations in the presence of a DOE representative, provide analyses of previous simulations conducted by the manufacturer, or conduct certification tests of basic models selected by the Department. See 10 CFR 429.74(c)(4). To maintain consistency, the Department is extending these requirements to WICF AEDMs.

a. Failure To Meet a Certified Rating

In the February 2014 SNOPR, DOE proposed to assess a unit's performance through third-party testing. Under this approach, DOE would begin the verification process by selecting a single unit of a given basic model for testing either from retail or by obtaining a sample from the manufacturer if none are available from retail sources. DOE would then select a third-party testing laboratory at its discretion to test the unit selected unless no third-party laboratory is capable of testing the equipment, in which case DOE may request testing at a manufacturer's facility. The Department would be responsible for the logistics of arranging the testing, and the laboratory would not be allowed to communicate directly with the manufacturer. Additionally, the test facility may not discuss DOE verification testing with the manufacturer without the Department present. See 79 FR at 9643–9644.

Further, under DOE's proposal, if a unit is tested and the results are determined to be outside the rating tolerances described in section III.A.2.b., DOE would notify the manufacturer. This approach would also enable the manufacturer to receive all documentation related to the test set up, test conditions, and test results for the unit if the unit falls outside the rating tolerances. At that time, a manufacturer would also be able to present all claims regarding any issues directly with the Department. See id. at 9644. If, after discussions with the manufacturer, DOE determined that the testing was conducted appropriately in accordance with the applicable DOE test procedure, the rating for the model would be considered invalid. The Department notes that 10 CFR 429.13(b) applies to equipment certified using an AEDM, and DOE may require a manufacturer to conduct additional testing if the manufacturer violates an applicable standard or certification requirement.

HTPG commented that DOE should allow the option for a second sample to be tested to ensure that abnormal failures unrelated to design or predictable variations do not adversely impact an otherwise sound model type. (HTPG, No. 96 at pp. 2–3) As stated above, if a unit is determined to be outside the prescribed rating tolerances, the Department would provide the manufacturer with all documentation related to the test set up, test conditions, and test results. At that time, the manufacturer may initiate a discussion with the Department regarding any concerns related to the test. For these reasons, DOE has determined it is not necessary to automatically allow testing of a second sample. DOE, at its discretion, may decide testing an additional sample is appropriate in cases where the tested sample has been found to be defective.

NCC commented that any basic model that fails to meet its certified rating should be re-certified based upon test data. If that model was used to validate an AEDM, then the AEDM should be re-validated (NCC, No. 95 at p. 2) DOE understand these suggestions and while DOE may require a manufacturer to conduct additional testing if the manufacturer has been found to be in violation of an applicable standard or certification requirement, the Department prefers not to mandate additional testing and instead evaluate such a requirement on a case-by-case basis. The Department is not inclined to mandate additional testing because of the burden it imposes. In terms of re-validation, as long as the manufacturer has sufficient test data underlying the AEDM to meet the validation requirements, additional testing for re-validation would not be required by DOE.

AHRI suggested that DOE apply the verification requirements adopted for commercial HVAC, WH, and refrigeration equipment to walk-ins. It requested that DOE include the provisions for witness testing and engineered-to-order equipment. (AHRI, No. 100 at p. 3) In this final rule, DOE has aligned the AEDM verification methodology for walk-ins to match the provisions for commercial HVAC, WH, and refrigeration equipment. However, the engineered-to-order concept is outside the scope today's rulemaking. DOE will address the engineered-to-order concept and other certification issues in a future rulemaking.

The CA IOUs commented that DOE's verification process is poor and not easily enforceable. Additionally, the CA IOUs raised the concern that WICF manufacturers are not as active in industry certification programs as other types of commercial equipment manufacturers. They assert that these two factors could undermine both the potential energy savings that would be likely to accrue from any standards that DOE issues and fair competition. The CA IOUs recommended that DOE work with AHRI and ASHRAE to develop calculation tools for WICF manufacturers. (CA IOUS, No, 101 at p. 2) The Department appreciates the suggestion from the CA IOUs; however, DOE finds that manufacturers are better suited for developing modeling tools for their own equipment because they have more intimate knowledge of their own equipment's operational and design characteristics. Thus, a model developed by the basic model's manufacturer is likely to be more accurate than a general model developed by the Department. And since DOE may request any of the relevant data and documentation a manufacturer has used to develop a given AEDM, in DOE's view, there is sufficient incentive for a manufacturer to take appropriate steps to ensure both the thoroughness and accuracy of its AEDMs.

b. Action Following Determination of Noncompliance Based Upon Enforcement Testing

Rather than require the revalidation of an AEDM if a noncompliant model had been used to validate that AEDM, DOE proposed that each AEDM must be supported by test data obtained from physical tests of current models. Because a noncompliant model may not be distributed in commerce, and so must be discontinued and can no longer be considered a current model, the manufacturer will need to ensure that the AEDM continues to satisfy the proposed validation requirements described in section III.A.2 Additional testing would only be necessary if the noncompliant equipment was used as a sample for validating the AEDM. In that case, the manufacturer must perform additional testing of a different model to ensure the AEDM is valid. Pursuant to this requirement, should such testing result in a change in the ratings of equipment certified using the AEDM, then those pieces of equipment must be re-rated and re-certified.

HTPG supported DOE's approach and stated that re-validation of an AEDM should only be required if a non-compliant model was used to validate the AEDM. (HTPG, No. 96 at pp. 2–3) It added that DOE should permit the use of a second sample to address possible abnormal failures. DOE notes that its proposed approach, which is based on the use of physical tests of a sample of models would not require on the results of tests from a single model and would account for abnormal failures that may occur. No other comments were received. Consequently, DOE is adopting the approach detailed in its proposal.

5. Re-Validation

DOE evaluated different circumstances that may require a manufacturer to re-validate an AEDM. These circumstances are described in more detail below. In response to this proposal in the SNOPR, ACEEE made a general comment that DOE's proposed treatment of the revalidation process appears to assure a good balance between testing burdens and trusted certifications. (ACEEE, No. 98 at p. 1)

a. Change in Standards or Test Procedures

In the February 2014 SNOPR, DOE proposed not to require re-validation every time the test procedure or standard changes. However, should DOE believe that re-validation is necessary pursuant to a final rule standard or test procedure, DOE would raise that issue in the appropriate NOPR and solicit comment from the public on the merits of including revalidation.

HTPG and NCC agreed with the Department's proposal to evaluate the necessity to re-validate an AEDM due to a federal energy conservation standard or test procedure change on a case-by-case basis. (HTPG, No. 96 at p. 3; NCC, No. 95 at p. 2) AHRI also commented that re-validation should only be required when a change in test procedure is significant enough to result in a product having a different rated value for energy consumption or efficiency. (AHRI, No. 100 at p. 3)

b. Re-Validation Using Active Models

DOE proposed to require manufacturers to re-validate their AEDMs if one of the basic models used for validation is no longer in production or if it becomes obsolete. See 79 FR at 9843. DOE did not receive any comments regarding this proposal and is adopting it in today's final rule. DOE is concerned that an AEDM's accuracy may be compromised if the models that are used to validate it become obsolete. DOE encourages manufacturers to test their models beyond the minimum validation requirements as a means to affirm an AEDM's validity. As long as the manufacturer has sufficient test data underlying the AEDM to meet the validation requirements and can readily produce that documentation on request, additional testing for re-validation would not be required by DOE.

c. Time Allowed for Re-Validation

In the February 2014 SNOPR, DOE declined to propose a time limit to re-validate an AEDM. A manufacturer would need to ensure that any AEDM it uses for purposes of certifying its equipment satisfies the validation requirements and that the necessary supporting documentation is available to DOE on request. AHRI agreed with DOE that a time limit should not be imposed because it is consistent with the AEDM requirements for commercial HVAC, WH, and refrigeration equipment. (AHRI, No. 100 at p. 3)

Lennox disagreed with the DOE's proposal not to include a time limit and the Department's statement that AEDMs must satisfy the fundamental validation requirements at all times. Lennox explained that without setting a time limit on the validity of a given AEDM, a change in federal standards, federal test procedure, basic model status, or a failure of a basic model could invalidate all certifications made using an AEDM. This situation could cause significant adverse economic impacts on manufacturers because it would reduce their ability to bring products to market while performing the additional testing required for re-validating the AEDM. Lennox recommended that if re-validation occurs due to an amended federal test procedure or energy conservation standard, then re-validation should not be required until the later of (1) 180 days after the final rule for the amended federal test procedure or energy conservation standards or (2) the effective date of that amended test procedure or standard. If re-validation is required due to a basic model becoming invalid or the failure of a basic model to meet its certified rating, DOE should allow a minimum of 120 days for the AEDM to be re-validated. (Lennox, No. 97 at p. 4) DOE agrees that in some circumstances a time limit should be imposed for re-validating AEDMs, such as in the case where a federal test procedure or energy conservation standard is amended. However, DOE prefers that the re-validation time limit be established on a case-by-case basis in the course of each particular rulemaking instead of mandating a specific time frame. Applying a more tailored approach would allow stakeholders of the particular rulemaking and the Department to evaluate how substantial the change may be and how much time would be required for the affected manufacturers to address such changes.

The February 2014 SNOPR also inadvertently included a request for comment on a 90-day allowance for manufacturers to re-validate, re-rate, and recertify an AEDM. DOE received comments from Bally, KeepRite, NCC, and HTPG stating that 90 days was insufficient and that a period of time around 120–180 days was more appropriate. (Bally, No. 93 at p. 2; KeepRite, No. 94 at p. 2; NCC, No. 95 at p. 2; HTPG, No. 96 at p. 3) As DOE is not establishing a time limit for re-validations in this Final Rule, and will instead handle this on a case-by-case basis, DOE is not adopting any of the suggested time periods offered by these commenters.

B. Refrigeration Test Procedure

During DOE's rulemaking to establish test procedures for WICF equipment, which resulted in a final rule published on April 15, 2011 (''April 2011 test procedure final rule;'' 76 FR 21580), interested parties supported DOE's approach to use AHRI 1250 (I–P)–2009, ''2009 Standard for Performance Rating of Walk-In Coolers and Freezers'' (''AHRI 1250–2009''), for WICF refrigeration testing. AHRI 1250–2009 is an industry-developed testing protocol used to measure walk-in efficiency. In

the 2014 SNOPR, DOE proposed to add certain modifications to its procedures for manufacturers to follow when applying AHRI 1250–2009. These proposed changes were designed to either clarify certain steps in AHRI 1250–2009 or reduce the testing burden of manufacturers while ensuring that accurate measurements are obtained. These modifications are discussed in the following sections.

1. Component-Level Ratings for Refrigeration: Overall

Responding to a number of comments addressing DOE's proposed energy conservation standards, DOE's February 2014 SNOPR proposed an approach to allow manufacturers to test a separately-sold condensing unit or unit cooler and generate an AWEF metric consistent with the existing system-based test procedure. Under the proposed approach, a manufacturer who sells a unit cooler model without a matched condensing unit must rate and certify that model as part of a refrigeration system basic model containing that unit cooler model by testing according to the methodology in AHRI 1250–2009 for unit coolers used with a parallel rack system (see AHRI 1250–2009, section 7.9). The manufacturer would use a calculation method to determine the system AWEF and certify this AWEF to DOE. Additionally, all unit coolers tested with this method would need to comply with any of the applicable standards that DOE may decide to adopt for the multiplex equipment classes addressed in its standards proposal. A manufacturer who sells a condensing unit model separately must rate and certify that model as part of a refrigeration system basic model containing that condensing unit model by conducting the condensing unit portion of the AHRI 1250–2009 mix/match test method. The results from the mix/match test would be combined with a nominal unit cooler capacity and power, based on nominal values for saturated suction temperature and unit cooler fan and electric defrost energy use factors (or the hot gas defrost calculation methodology, as applicable), in order to calculate an AWEF for the refrigeration system basic model containing that condensing unit. 79 FR at 9830.

All commenters supported DOE's proposal to allow rating and certification for unit coolers and condensing units separately. (Bally, No. 93 at p. 2; Keeprite, No. 94 at p. 2; NCC, No. 95 at pp. 2–3; HTPG, No. 96 at p. 3; ACEEE, No. 98 at p. 1; ASAP, et al., No. 99 at p. 2; CA IOUs, No. 101 at p. 1; AHRI, No. 100 at p. 4; and Lennox, No. 97 at p. 5) Several commenters, however, suggested that DOE clarify the circumstances under which unit coolers and condensing units may be rated separately or as a matched system. Keeprite and AHRI suggested that if a manufacturer of a unit cooler and condensing unit rates each component as a separate basic model, the manufacturer should not need to re-rate the components as a combined system even if they are marketed and sold together. However, they further suggested the matched system test method should be used if the system is a packaged system or the components are exclusively marketed and sold as a matched system. (Keeprite, No. 94 at p. 2; AHRI, No. 100 at pp. 4–5) NCC stated that, except for packaged systems and those units paired in marketing literature, manufacturers should be permitted to rate all unit coolers and condensing units separately. (NCC, No. 95 at pp. 2–3) Similarly, Lennox requested that DOE clarify that only models exclusively marketed and sold as a matched system must be rated as a matched system, and that manufacturers should be allowed to match components as a service to the customer without having to test each combination if the components were previously rated separately. (Lennox, No. 97 at pp. 5–6)

The CA IOUs, on the other hand, recommended that DOE require unit coolers and condensing units to be rated separately unless they are part of a unitary (self-contained) system or a matched variable refrigerant flow system. Otherwise, if DOE allows matched equipment rating for combinations of ''remote'' unit coolers and condensing units (i.e., those produced as separate pieces of equipment), then DOE should also require the manufacturer to calculate the efficiency ratings of each component as though it were to be sold separately and, if they have a lower rating when rated separately, DOE should require an annual accounting of shipments to ensure they are always sold as combined systems. (CA IOUs, No. 101 at pp. 1–2) ASAP, et al. agreed that DOE should ensure that unit coolers and condensing units rated as ''matched pairs'' are only sold as ''matched pairs'' unless the components are also rated separately, to prevent the situation where an inefficient component is rated with a highly efficient component as a matched pair, but the inefficient component is also sold separately, resulting in lost energy savings. (ASAP, et al., No. 99 at pp. 1–2) HTPG, on the other hand, stated that the rating of matched systems should be allowed in order for the AWEF ratings to reflect technology advances that require closely matching unit coolers and condensing units. (HTPG, No. 96 at p. 3) The CA IOUs also recommended that the mix-match approach be dropped from the standard and that DOE not require measurement of condensing unit performance at two different suction pressures for each ambient temperature application, which reduces manufacturer test burden. (CA IOUs, No. 101 at p. 2)

In this rule, DOE finalizes an approach that would allow manufacturers to test a condenser or unit cooler separately, but rate that component as part of a refrigeration system with an AWEF metric consistent with DOE's proposed energy conservation standards for WICF refrigeration systems. First, DOE agrees with Keeprite, AHRI, NCC, and Lennox that, if components are rated separately for the purposes of certifying and complying with the DOE standard, they do not need to be rated as a matched system if they are later combined and sold as a matched system, either by their original manufacturer or an installer. If, however, a manufacturer wishes to make a representation of a matched system's efficiency that is higher than the ratings achieved individually by each component, the manufacturer must base that representation on the rating obtained through testing of the matched system. Second, DOE agrees with the CA IOUs and ASAP, et al. that a component must be certified individually and must individually comply with DOE's standards if it is sold separately by its manufacturer. However, DOE does not intend to prevent manufacturers from rating and certifying matched systems in order to reflect technological advances achievable with matched systems, as pointed out by HTPG. DOE recognizes that certain refrigeration systems, such as packaged or unitary systems that consist of a single piece of equipment, or systems that implement a multiple-capacity condensing unit, can only be rated as matched systems under the current test procedure. DOE recognizes that, as pointed out by the CA IOUs, the mix-match procedure is not needed under this approach, as components sold separately would be rated using the separate rating methodology, and components sold as a matched system would be rated using the matched system test procedure. Therefore, DOE is removing the mix-match suction temperature conditions from the test method for clarity and consistency with

its overall rating and certification approach.

Some commenters also urged DOE to supplement the proposed separate-standards approach with a product labeling requirement to improve the enforceability of the standard. ASAP, et al. stated that the component level approach could create a loophole whereby a component manufacturer could avoid having to meet DOE's walk-in standards by claiming that its component is not designed for use in walk-ins or by declining to specify an application for the equipment. In the short term, it suggested that DOE should require all components sold for use in a walk-in to bear a label indicating that they are certified for walk-in use, and issue revised compliance guidance clarifying that walk-in component standards apply to equipment that has the attributes associated with typical walk-in components in the absence of a manufacturer's specific instruction that the equipment is not for use in walk-ins. In the long term, DOE should develop energy conservation standards for components independent of end-use. (ASAP, et al., No. 99 at pp. 2–3) Furthermore, ASAP, et al. stated that DOE should require unit coolers and condensing units rated and sold as matched pairs to bear a label stating that each is only for sale when matched with the other component. (ASAP, et al., No. 99 at p. 2) Similarly, the CA IOUs recommended that DOE develop compliance and labeling requirements such that all major walk-in components would carry a label certifying that they comply with the walk-in efficiency regulations. If DOE allows matched pairs of unit coolers and condensing units where one of the components does not comply with the standard individually, the labeling scheme should ensure that the deficient component is only installed with the matched component that results in the combined system efficiency that complies with the DOE standard. (CA IOUs, No. 101 at p. 6)

DOE agrees with the CA IOUs and ASAP, et al. and recognizes the importance of labeling in facilitating compliance and enforcement throughout the WICF distribution chain, and in ensuring that systems rated as matched systems are only sold in their matched configuration. Although DOE is not establishing labeling requirements at this time, it may consider establishing labeling requirements in a future certification, compliance, and enforcement rulemaking.

2. Component-Level Ratings for Refrigeration: Metrics

Two interested parties commented on the metrics used to rate individual components. The CA IOUs recommended that the performance metric for condensing units be the Annual Energy Efficiency Ratio (AEER) because it is simpler to calculate than AWEF and can be expanded to a broader range of condensing units than those used in walk-in applications. (CA IOUs, No. 101 at p. 3) AHRI also suggested that condensing units and unit coolers sold separately should have a separate metric than AWEF, as the use of AWEF implicitly allows for component ratings to be compared to system ratings. (AHRI, No. 100 at pp. 5–6)

In this final rule, DOE is retaining AWEF as the metric for rating refrigeration systems and for refrigeration system components (condensing units and unit coolers) rated as part of a refrigeration system, as this is the metric used in the DOE test procedure, which is based on the industry testing protocol AHRI 1250–2009. If the industry develops a future revision of this test method with different metrics, such as AEER or another, separate metric for component ratings, then DOE may consider adopting it in a future rulemaking.

Neither the refrigeration test procedure nor the proposed energy conservation standard incorporates standby or off-mode energy use because the vast majority of WICFs must operate at all times to keep their contents cold. The CA IOUs recommended that the refrigeration system metric account for stand-by losses, particularly for condensing units when the compressor is off, as condensing unit ancillary loads such as the crankcase heater, transformer, and control electronics can contribute significantly to the energy consumption. (CA IOUs, No. 101 at p. 4)

DOE agrees that, when considered individually, condensing units may experience standby energy use when the compressor is not running. DOE carefully considered this issue but is not currently aware of any recognized or well-accepted methods for measuring standby condenser energy use. However, if the industry develops a test method to determine this energy usage, then DOE may consider adopting it in a future rulemaking.

3. Component-Based Ratings for Refrigeration Systems: Nominal Calculation Values

In the SNOPR, DOE proposed nominal values for unit cooler capacity and power to be used when rating a condensing unit as an individual component of a refrigeration system using an AWEF metric. DOE developed the nominal values from DOE testing and modeling of WICF refrigeration systems and published the test data on which the nominal values were based. 79 FR at 9830.

In general, stakeholders agreed with the use of nominal unit cooler values to rate condensing units. (CA IOUs, No. 101 at p. 3; Bally, No. 93 at p. 2; NCC, No. 95 at p. 3; HTPG, No. 96 at p. 4; AHRI, No. 100 at p. 5; and Lennox, No. 97 at p. 2) However, some were concerned that components rated separately would not be able to meet DOE's energy conservation standards. AHRI expressed concern about the effect of the rating strategy on minimum efficiency levels and recommended that DOE conduct a thorough and public analysis to alleviate the concern that the AWEFs proposed in the energy conservation standards NOPR would not be achievable by refrigeration components rated separately. (AHRI, No. 100 at pp. 5–6) NCC also suggested that DOE conduct an evaluation to ensure the energy efficiency standard levels are achievable with this approach. (NCC, No. 95 at p. 3) With respect to AHRI's concern that the AWEF standards are not achievable by refrigeration components, DOE notes that it has structured its nominal values assuming that the condensing units are paired with unit coolers that would meet whatever standard, if any, that DOE may eventually adopt. Thus, condensing unit manufacturers should not incur a penalty if they rate their condensing unit as part of a matched system or as an individual component. The following paragraphs address specific comments or concerns about the three main nominal values used in the equations: on-cycle evaporator fan power, off-cycle evaporator fan power, and defrost energy.

a. On-Cycle Evaporator Fan Power

In the SNOPR, DOE proposed a nominal value for on-cycle evaporator fan power of 0.016 Watts per Btu/h of gross capacity at the highest ambient rating condition, based on test and modeling data. 79 FR at 9831.

Lennox commented that the proposed nominal value for fan power for unit coolers is based on test data that only covered the low end of the full range of

capacities of equipment used in WICF enclosures. On-cycle fan power is not a constant value as a function of unit capacity, but increases as the unit capacity increases as a result of the long air throw (that is, the distance the air must travel after it leaves the fan) required by this type of equipment. (Lennox, No. 97 at pp. 2, 5)

In response to Lennox's comment, DOE surveyed a wider range of unit coolers to compare unit cooler fan wattage to unit capacity. DOE found that its nominal value of 0.016 for unit cooler fan wattage per capacity was valid for low temperature systems even at capacities up to 250,000 Btu/h; however, a lower nominal value was more appropriate for medium temperature systems. (DOE was not able to find manufacturer specifications for larger capacities of unit coolers). Therefore, DOE is retaining its nominal value of 0.016 for low temperature unit cooler on-cycle fan power and implementing a nominal value of 0.013 for medium temperature unit cooler on-cycle fan power. The data and analysis underlying this finding are included in the docket at *http://www.regulations.gov/#!docketDetail;D=EERE-2008-BT-STD-0015.*

b. Off-Cycle Evaporator Fan Power

In the SNOPR, DOE proposed a nominal value for off-cycle evaporator fan power of 0.2 times the on-cycle evaporator fan power. 79 FR at 9831. The CA IOUs noted that this default value is appropriate only if DOE assumes that unit coolers are using variable speed evaporator fans and dropping their fan speed to 50 percent of flow during the off-cycle periods. (CA IOUs, No. 101 at pp. 3–4) DOE's nominal fan power values are based on the approach taken in DOE's proposed standards. That approach, in turn, is based on the potential use of unit coolers that incorporate variable speed evaporator fans. Variable speed evaporator fans comprise one of the technology options on which the proposed energy conservation standard is based. Therefore, DOE is including this assumption to ensure that condensing unit manufacturers are not unfairly penalized in comparison to matched system manufacturers.

c. Defrost Energy

In the SNOPR, DOE proposed a nominal value for electric defrost energy of 0.12 Watt-hours per defrost cycle, per Btu/h of gross capacity at the highest ambient rating condition, and that four (4) cycles per day should be assumed unless specified otherwise in the manufacturer's installation instructions. See 79 FR at 9831. This 4-cycle approach uses the same number of cycles that DOE built into its walk-in standards analysis. Under this approach, the daily electric defrost heat contribution would be 0.95 times the daily electric defrost energy use, converted from Watt-hours to Btu. These nominal values are only applicable to low-temperature refrigeration systems. 79 FR at 9831. DOE also specified that condensing units designed to be used with a hot gas defrost unit cooler, rather than an electric defrost unit cooler, must use the nominal values for hot gas defrost heat load and energy use—that is, the daily hot gas defrost heat contribution would be 0.18 btu per defrost cycle, per Btu/h of gross capacity at the highest ambient rating condition; and the daily defrost energy shall be equivalent to half the calculated daily defrost heat converted from Btu to watt-hours. 79 FR at 9830–9832.

The CA IOUs suggested that the application of the unit cooler nominal values for defrost are fixed values that a manufacturer would use. In its view, the proposed regulatory text seems to imply that the manufacturer's instructions would never contain any assumed values regarding the number of applicable cycles that would apply. Consequently, the CA IOUs suggested that DOE clarify the final regulatory text by indicating that the assumed number of cycles be fixed at 4 cycles per day. (CA IOUs, No. 101 at pp. 3–4)

In response to the CA IOUs' comment, DOE believes there may be some defrost control mechanisms that reside in the condensing unit, with associated manufacturer instructions. To account for this possibility, DOE is providing manufacturers with the flexibility to specify the number of defrost cycles that may occur. In an effort to avoid limiting the manufacturers' ability to reduce the number of defrosts, DOE is retaining the option to test according to manufacturers' instructions. However, in investigating this issue, DOE recognizes that the approach taken in DOE's proposed standards is based on the potential use of defrost controls that may reside in the unit cooler and not in the condensing unit. Defrost controls comprise one of the technology options on which the proposed energy conservation standard is based. Therefore, DOE is revising its default value for the number of defrosts per day to 2.5 to ensure that condensing unit manufacturers are not unfairly penalized in comparison to matched system manufacturers.

Lennox commented that the test data used by DOE to establish the nominal value for defrost energy does not represent the full range of capacities used in WICFs. The nominal value for daily defrost energy use of 0.12 W-h/cycle per BTU/h of capacity is representative for smaller capacity units but not larger capacity units, because the defrost energy (W-h/cycle per BTU/h) is not a constant value as a function of unit capacity. The defrost energy increases, but not linearly, as the unit capacity increases due to the larger coil sizes and corresponding heater wattage required for larger capacity units. (Lennox, No. 97 at pp. 6–7)

In response to Lennox's comment, DOE surveyed a wider range of unit coolers (with capacities up to 250,000 Btu/h) to compare defrost wattage and energy-to-unit capacity. DOE found that electric defrost wattage increases linearly with capacity, but, consistent with the analysis DOE performed for its energy conservation standards rulemaking, defrost duration would also be expected to increase nonlinearly with capacity. Thus, DOE agrees with Lennox's assessment that total defrost energy increases non-linearly with capacity. As a result of its analysis, DOE is expressing the electric defrost energy as a power function instead of a linear equation. The data and analysis underlying the development of this equation are included in the docket at *http://www.regulations.gov/#!docket Detail;D=EERE-2008-BT-STD-0015.*

DOE also clarifies that condensing units designed to be used with hot gas defrost unit coolers may use the nominal values associated with hot gas defrost systems. For clarity, DOE has added these values as nominal values for unit cooler energy use factors. DOE is also expressing the values in the form of equations that incorporate the capacity variable to emphasize that they are functions of the given unit's capacity.

Table III.5, below, contains DOE's revisions to the nominal values for unit coolers.

TABLE III.5—CALCULATIONS FOR UNIT COOLER SATURATED SUCTION TEMPERATURE AND ENERGY USE FACTORS

	Medium temperature	Low temperature
Saturated Suction Temperature (°F)	25	−20.
On-cycle evaporator fan power (W)	0.013 × Q*	0.016 × Q.
Off-cycle evaporator fan power (W)	0.2 × on-cycle evaporator fan power.	
Electric defrost energy per cycle (W-h/cycle)	0	$8.5 \times 10^{-3} \times Q^{1.27}$
Electric defrost heat contribution per cycle (Btu/cycle)	0	0.95 × electric defrost energy use per cycle × 3.412.
Hot gas defrost energy per cycle (W-h/cycle)	0	0.5 × hot gas defrost heat contribution per cycle/3.412.
Hot gas defrost heat contribution per cycle (Btu)	0	0.18 × Q.
Number of cycles per day	As specified in installation instructions or, if no instructions, 2.5	

* Q represents the gross capacity at the highest ambient rating condition in Btu/h.

4. Other Test Procedure Changes

In the SNOPR, DOE proposed several other changes to clarify or simplify elements of the test procedure to reduce overall test burden. These changes, discussed below, consist of a variety of modifications related to both refrigeration systems and panel insulation. HTPG generally agreed with the changes and stated they would reduce testing burden and improve manufacturers' ability to respond to DOE's proposed standards. (HTPG, No. 96 at p. 4) Concurrent with this rulemaking, AHRI formed a committee to update the AHRI 1250–2009 test procedure. In its comment, AHRI stated that its latest updates to AHRI 1250 had adopted most of DOE's proposed changes in the SNOPR, with a few minor alterations. AHRI included a courtesy copy of the draft AHRI 1250 update, titled AHRI 1250–2014, with its comment to DOE. (AHRI, No. 100 at p. 2) DOE has reviewed AHRI's update to the test method and has incorporated many of the changes. (Specific details on changes and associated comments are discussed in the following sections.) DOE intends to begin the process of incorporating by reference the entirety of the updated version, which will require a separate rulemaking. Meanwhile, DOE is retaining its approach of amending the current test procedure (AHRI 1250–2009) in the regulatory language.

a. Nominal Values for Defrost Energy and Heat Load Calculations

In the SNOPR, DOE proposed a calculation methodology that would be used for calculating some aspects of electric defrost energy use in lieu of using certain tests for electric defrost energy use. Specifically, DOE proposed that the only required test for electric defrost energy use of unit coolers is the test to determine the energy input for the dry coil condition. The nominal values for frosted coil energy use, number of defrosts per day in the event that the unit cooler has an adaptive defrost system, and daily contribution of heat load attributed to defrost could then be calculated using nominal values rather than having to conduct their individual respective tests. Furthermore, as there is currently no industry-accepted method for calculating hot gas defrost energy use and heat load, DOE proposed nominal values for calculating these quantities for systems utilizing hot gas defrost. 79 FR at 9831–9832.

Lennox agreed with DOE's proposal to make the full defrost tests optional, as well as a portion of the adaptive defrost test. (Lennox, No. 97 at p. 6) AHRI incorporated DOE's nominal values and calculation methodology for electric and hot gas defrost into its update of AHRI 1250. (AHRI, No. 100 at pp. 56–58) HTPG, however, noted that the calculation methods for hot gas defrost do not allow for some of the advanced methods being utilized in the market or that may be likely to occur in the near future. HTPG proposed that DOE work with industry to develop a test method to give credit to the energy advantages of various hot gas defrost methods. (HTPG, No. 96 at p. 4)

After carefully considering these comments, DOE has decided to retain the nominal values for calculating frosted coil energy use, number of defrosts per day if the unit has an adaptive defrost system, and daily contribution of heat load, as well as nominal values for calculating hot gas defrost energy use and heat load. DOE agrees with HTPG that a test procedure for hot gas defrost would be beneficial to capture innovative technologies not currently accounted for by the calculation methodology. Should the industry develop a test method for rating hot gas defrost systems, DOE may consider adopting it.

b. Off-Cycle Evaporator Fan Test

In the SNOPR, DOE proposed to amend one aspect of its test procedure that incorporates AHRI 1250–2009. Specifically, DOE raised the possibility of amending that portion of its procedure that involves AHRI 1250–2009, section C10 by changing the currently specified requirement that when conducting the off-cycle evaporator fan test, controls shall be adjusted so that the greater of a 25 percent duty cycle or the manufacturer default is used for measuring off-cycle fan energy; and for variable speed controls, the greater of 25 percent fan speed or the manufacturer's default fan speed shall be used for measuring off-cycle fan energy. In the SNOPR, DOE proposed to amend the maximum off-cycle fan cycling or speed reduction to 50 percent of on-cycle duty cycle or 50 percent of on-cycle fan speed. 79 FR at 9832. The CA IOUs supported DOE's proposal, citing research that found that a 50 percent reduction in fan speed did not have significant impacts on product temperatures, room temperature stratification, or infiltration. (CA IOUs, No. 101 at pp. 4–5) Lennox and AHRI also agreed with the proposed modification, and AHRI noted that they included the modification in their revised test procedure, AHRI 1250–2014. (Lennox, No. 97 at p. 7; AHRI, No. 100 at p. 10) In the absence of any objection to its proposed approach, DOE is adopting its proposed amendment.

c. Refrigerant Oil Testing

In the SNOPR, DOE proposed to eliminate from its requirements that AHRI 1250–2009, section C3.4.6 be followed when conducting a test of walk-in refrigeration systems. That incorporated provision requires that a measurement be taken of the ratio of oil

to refrigerant in the liquid refrigerant passing from the condenser to the unit cooler for all condensing units with on-board oil filters. 79 FR at 9832. Lennox agreed with DOE's proposal to eliminate the requirement for oil circulation test for units with integrated oil separators and with the assumption that the associated oil circulation ratio would be less than 1 percent. (Lennox, No. 97 at p. 7) The CA IOUs supported DOE's proposed removal of the requirement for refrigerant oil testing for systems with oil separators and added their collective belief that manufacturers do not anticipate that any new WICF refrigeration system being tested would likely have negligible oil in the refrigerant. They stated that the proposal to remove the oil testing requirement should apply to all systems and not just those with in-line oil separators. The CA IOUs recommended DOE investigate this claim and if correct, remove the requirement for all systems. (CA IOUs, No. 101 at p. 5) NCC and AHRI also supported removing the oil testing requirement for all systems, not just systems with oil separators, as single-compressor condensing units do not generally have oil separators. These commenters asserted that conducting oil testing would be time-consuming, expensive, and unnecessary. (NCC, No. 95 at p. 3; AHRI, No. 100 at p. 6) In light of these comments, DOE is removing the oil testing requirement for all systems due to the test burden involved and its belief that refrigerant oil is not a significant factor in new systems. If, however, DOE finds that refrigerant oil is affecting the repeatability or accuracy of the testing, DOE may reinstate this requirement at a later time.

d. Temperature Measurement

In the SNOPR, DOE proposed that the required tolerance for test temperature measurement be maintained at ±0.5 °F for measurements at the inlet and outlet of the unit cooler, but be altered to ±1.0 °F for all other temperature measurements, allowing for the use of smaller temperature measurement probes which can more easily be placed in contact with the refrigerant while not impeding its flow. Additionally, DOE proposed to allow the test to be conducted using sheathed sensors immersed in the flowing refrigerant for refrigerant temperature measurements upstream and downstream of the unit cooler, in order to reduce test burden. No refrigerant temperature measurements other than those upstream and downstream of the unit cooler would require a thermometer well or sheathed sensor immersion. 79 FR at 9832.

The CA IOUs supported DOE's proposal to allow refrigerant measurements upstream and downstream of the unit cooler to be conducted using either sheathed sensors or thermocouple wells immersed in flowing refrigerant. (CA IOUs, No. 101 at p. 5) AHRI noted its update to the test procedure, AHRI 1250–2014, incorporates DOE's proposed approach for temperature measurement. (AHRI, No. 100 at p. 10) Keeprite, on the other hand, believed the type of temperature sensor should not be specified as there are other methods or technologies that exist that could achieve the specified tolerances. (Keeprite, No. 94 at p. 2)

In light of the comments, DOE is adopting the modifications to the temperature measurement approach in this final rule. In response to Keeprite's comment, DOE notes that the approach being adopted today incorporates methods that have been established and accepted by industry for accurate measurement of temperature. If DOE becomes aware of other, equally valid methods or technologies for measuring temperature, it may consider adopting them as acceptable methods in the DOE test procedure.

e. Test Condition Tolerances

In the SNOPR, DOE proposed to modify the existing test procedure tolerances to:

- Set a test condition tolerance for the frequency of electrical power;
- Clarify that the stated maximum allowable voltage imbalance for three-phase power supply refers to the maximum imbalance for voltages measured between phases, rather than phase-to-neutral;
- Delete the requirements related to the test condition tolerances or measurements of air leaving the unit; and
- Remove the tolerances for wet bulb temperature on the outdoor system conditions, except for units with evaporative cooling.

DOE proposed to retain all other measurement tolerances for air entering the heat exchangers, including dry bulb outdoor conditions and dry bulb and wet bulb indoor conditions (wet bulb temperature or humidity levels greater than the required test conditions could cause excessive frosting of the coil and affect its rated capacity). 79 FR at 9832–9833.

The CA IOUs supported DOE's proposed changes to the instrumentation accuracy requirements and DOE's recommendation not to require or set accuracy requirements for air temperature exiting unit coolers. The CA IOUs also agreed that air temperature leaving unit coolers need not be measured and that maintaining condensing unit entering air wet-bulb temperatures should only be applicable to the testing of evaporatively cooled condensing units, but supported maintaining both the specified dry-bulb and relative humidity conditions for air entering the unit cooler. (CA IOUs, No. 101 at p. 5) AHRI noted that its update to the test procedure, AHRI 1250–2014, incorporates DOE's proposed test procedure tolerances. (AHRI, No. 100 at p. 10) In light of the comments, DOE is adopting its proposed tolerances.

f. Pipe Insulation and Length

In the SNOPR, DOE proposed that pipe lines between the unit cooler and condensing unit insulation be equivalent to a half-inch thick insulation with a material having an R-value of at least 3.7 per inch, and that flow meters would not need to be insulated but must not contact the floor. DOE also proposed to clarify the requirements on piping length such that:

- The length of piping between the condenser and unit cooler does not include any flow meters;
- The length of piping allowed within the cooled space shall be a maximum of 15 feet; and
- In the event that there are multiple branches of piping inside the cooled space, the 15-foot limit shall apply to each branch individually instead of the total piping length. 79 FR at 9833.

Lennox supported DOE's proposed clarification of pipe insulation and length requirements. (Lennox, No. 97 at p. 7) AHRI noted it has already incorporated DOE's proposed requirements for pipe insulation and length in its latest revision to the test method, AHRI 1250–2014. (AHRI, No. 100 at p. 73) In light of the comments, DOE is adopting its proposed modifications to piping insulation and length requirements.

g. Composition Analysis

In the SNOPR, DOE proposed to remove the current requirement in its procedure that a refrigerant composition analysis be conducted for systems with zeotropic refrigerant mixtures. 79 FR at 9833. Lennox and the CA IOUs supported the proposal. (Lennox, No. 97 at p. 7; CA IOUs, No. 101 at p. 5) ACEEE recommended that if changes in the ratios of the zeotropic blend could significantly affect capacity or efficiency, then verification that the composition meets industry standards may be needed; however, this could consist of laboratory certification documents provided by the

manufacturer of the refrigerant blend. (ACEEE, No. 98 at p. 1) AHRI indicated that it removed the current requirement to test a sample of the superheated vapor refrigerant. (AHRI, No. 100 at p. 10) In light of the comments, DOE is removing the requirement to conduct a refrigerant composition analysis. If, however, DOE finds that refrigerant composition is affecting the repeatability or accuracy of the testing, DOE may reinstate this requirement at a later time.

h. Unit Cooler Test Conditions

In the SNOPR, DOE proposed to incorporate a modified version of Tables 15 and 16 from AHRI 1250–2009. Those tables list the unit cooler test conditions. DOE proposed to include the inlet saturation temperature and outlet superheat conditions required in AHRI 420–2008, ''Performance Rating of Forced-Circulation Free-Delivery Unit Coolers for Refrigeration,'' (''AHRI 420–2008'') for testing these types of unit coolers as part of the tables. 79 FR at 9833.

Lennox and the CA IOUs recommended that instead of setting the superheat conditions to 6.5 °F in all cases, as required by AHRI 420–2008, the superheat conditions should be set according to the manufacturer's specifications or installation instructions to ensure that the test method can credit the energy efficiency benefits of electronic expansion valves by allowing manufacturers to set lower superheat levels. (Lennox, No. 97 at pp. 7–8; CA IOUs, No. 101 at p. 6) Lennox also noted that the saturated suction values should reflect the freezer test conditions of − 20 and − 25 °F. (Lennox, No. 97 at p. 8) The CA IOUs supported fixing the liquid inlet saturation temperature at 105 °F. (CA IOUs, No. 101 at p. 6) Additionally, AHRI incorporated the AHRI 420–2008 conditions into the tables with test conditions for unit coolers, with the addition of a note instructing that superheat conditions shall be set according to the equipment specification in the equipment or installation manual. That note specifies that in instances where no specification is given, a default superheat value of 6.5 °F shall be used, and the superheat setting shall be reported as part of the standard rating. (AHRI, No. 100 at pp. 32–33)

DOE notes that manufacturers can often incorporate technologies that allow the superheat to be lowered from the industry default value to reduce energy consumption, but installers typically set the superheat by adjusting a valve. Manufacturers would need to specify a lower superheat value in their installation instructions in order for the equipment to realize an energy benefit. Therefore, DOE is requiring that superheat be set according to the manufacturer's specifications in order to give credit for electronic expansion valves or advanced controls. In instances where there are no specifications for superheat, then the superheat shall be set to 6.5 °F. In either case, superheat must be reported as part of the standard rating.

C. Test Procedure for WICF Panel R-Value (ASTM C518–04)

The DOE test procedure, 10 CFR 431.304 *Uniform test method for the measurement of energy consumption of walk-in coolers and walk-in freezers,* incorporates by reference ASTM C518–04, a standard method for determining thermal transmission properties (i.e., thermal conductance or conductivity) of a material. In the February 2014 SNOPR, DOE proposed several modifications and clarifications to the test procedure to ensure accuracy and reliability. These proposed revisions would apply to those testing provisions that manufacturers must currently use as well as those provisions that would need to be followed when evaluating the efficiency of a panel under any new standards that DOE may eventually adopt as part of its parallel standards rulemaking. The proposed revisions would require that test samples be no more than one (1) inch in thickness, be taken from the center of the panel and have all protective skins or facers removed prior to testing. See 79 FR at 9844. DOE received several comments on its proposed modifications, which are discussed in the following subsections.

1. Test Sample Specifications

In the SNOPR, DOE proposed that test samples for R-value measurement according to ASTM C518–04 be 1 inch in thickness and cut from the center of a walk-in cooler or walk-in freezer panel. AHRI agreed with DOE's proposal for test samples to be 1-inch in thickness and extracted from the center of a finished panel. (AHRI, No. 100 at p. 7) Bally also agreed that the requirement for a 1-inch thick sample cut from the center of a finished panel is appropriate. Bally further suggested the addition of a dimensional tolerance of +.125 inches and −0.0 inches for this thickness. (Bally, No. 93 at p. 3)

DOE is adopting its proposal that test samples for R-value measurements made according to ASTM C518–04 be 1-inch in thickness and cut from the center of a walk-in cooler or walk-in freezer panel. This change should minimize any inaccuracy that may result from the differences in thickness and thermal conductance between the test sample and the standard reference material (SRM) used to calibrate the heat flow meter apparatus. ASTM C518–04 makes several statements that indicate that the test sample thickness and thermal properties should be comparable to those of the calibration standard used. (ASTM C518–04 Section 6.1 and 6.5.4) It also states that the thickness of test samples should be restricted in order to minimize the amount of lateral heat losses during testing. (ASTM C518–04 Section 7.6.1) The new requirement to use a 1-inch thick sample is in accordance with these recommendations of ASTM C518–04. The test sample will be required to be extracted from the center of a panel (rather than near the panel face) since the insulation foams used in WICF panels will have experienced the least amount of aging degradation near the center of the panel; also, edge regions are not to be included in testing. DOE agrees that a tolerance on the 1-inch requirement is appropriate in order to clarify this requirement. Using a sample thickness of precisely 1 inch is not important to the measurement because the heat flow meter apparatus adjusts its measurement for the exact thickness. The objective of the requirement is that the sample thickness be close to 1-inch, as opposed to 2 inches or 0.5 inch, to improve accuracy, as described above, and to achieve consistency of test results obtained in different laboratories. A tolerance of ±0.1-inch for the thickness of the test sample will help achieve these objectives, while being well within the precision of the cutting tools typically used to prepare the sample. (DOE understands that a high-speed band-saw is often used for cutting foam panels; moreover, a high-speed band-saw and meat slicer are the two recommended cutting tools suggested by ASTM C1303–09a *Standard Test Method for Predicting Long-Term Thermal Resistance of Closed-Cell Foam Insulation,* Section 6.2.2.3.) Given that these cutting tools are generally readily available and capable of the precision required, DOE believes that a ±0.1-inch tolerance for the thickness of the test sample is appropriate and sufficient.

DOE also agrees with Bally's statement that care be taken during any cutting processes so as to not alter the heat transfer properties of the cut surface. (Bally, No. 93 at p. 3) Section 6.2.2.4 of ASTM C1303–09a prohibits the use of hot-wire cutters for cutting

test samples in closed-cell foams to prevent the formation of a surface skin. DOE will also adopt as part of this final rule a provision to prohibit the use of hot-wire cutters or other heated cutting instruments in preparing test samples in order to limit potential altering of the samples' heat transfer properties during the cutting process.

2. Removal of Panel Facers

DOE is also making explicit the requirement that facers or protective skins be removed. While these components make a negligible contribution to the overall thermal resistance of WICF panels in the direction transverse to the panel surface, DOE recognizes that the inclusion of metal facers or protective skins during testing using a heat flow meter apparatus results in unreliable measurements. ASTM C518–04 states that the presence of inhomogeneities or thermal bridges can produce inaccurate results. (ASTM C518–04 (4.4))

In its comments on the February 2014 SNOPR, AHRI related that requiring a 1-inch thick sample from a finished panel will already involve removal of the facers or protective skins. (AHRI, No. 100 at p. 7) DOE recognizes that facers or skins would be removed when cutting a 1-inch thick sample from the center of a thicker panel. DOE also agrees with AHRI's assertion that panels for testing should be supplied as fully fabricated panels intact prior to testing, and that the 1-inch thick test sample should be removed by the test laboratory at the time of testing. (AHRI, No. 100 at p. 7) The requirements of 10 CFR 431.304(b)(5) and (c)(5) require that the insulating foam for testing be supplied for testing in its final chemical state. For sprayed foams, the final chemical form inherently requires facers or protective skins to form the shape of the panel. Extruded foam board stock is typically provided to WICF panel manufacturers in its final chemical form; in this case, facers or protective skins may or may not be attached prior to testing. Nevertheless, DOE is explicitly requiring that facers or skins be removed to ensure that the process of cutting a sample from a thicker panel will always achieve this objective.

3. 48-Hour Testing Window

DOE also proposed a 48-hour window once a test sample has been cut from a WICF panel to perform ASTM C518–04 testing in order to minimize the effect of aging of the closed-cell foam that constitutes the panel insulation. Thermal resistance of polyurethane foams that are typical of WICF panels decreases over time due to the diffusion of air into the foam. DOE proposed the 48-hour window in order to ensure repeatability and comparability in test results. The 48-hour window was developed based on data from Wilkes, et al. at Oak Ridge National Laboratory.[3] In this study, thermal conductivity of a 0.4 inch thick polyurethane foam insulation increased between 6.0% and 20.7% (depending on the blowing agent used) when aged at 90 °F for 8 days and tested at 45 °F. Assuming that the rate of increase of thermal conductivity during this initial period is linear, the range of increase covered by these data over a 48-hour period would have been 1.5% to 5%. DOE understands that the higher temperature of 90 °F at which these samples were aged and the smaller thickness of the sample (0.4 inch compared to 1-inch as proposed for WICF panels) would also have played contributing roles in accelerating the aging process compared to what is to be expected in testing WICF panels.

AHRI commented that the 48-hour period is appropriate and sufficient. (AHRI, No. 100 at p. 7) Bally agreed that the time between cutting and testing should be minimized, but disagreed that 48 hours is an appropriate testing window for a cut sample. Bally stated that 48 hours may be appropriate for a conditioning period for the uncut panel but once the panel is cut, only one hour should be allowed before testing is performed (rather than the 48 hours as DOE has proposed). (Bally, No. 93 at p. 4) However, Bally provided no evidence or data suggesting that thermal conductivity would increase measurably between 1 and 48 hours after cutting the test sample. DOE notes that section 7.3 of ASTM C518–04 does not specify a conditioning period but states that the conditioning period is typically indicated by a material specification, that a typical material specification calls for conditioning ''at 22°C and 50% R.H. for a period of time until less than a 1% mass change is observed over a 24-h period,'' and that where the material specification does not indicate a conditioning period, materials shall not be exposed to temperatures that will irreversibly alter the test specimen. (ASTM C518–04 Section 7.3) As mentioned above, DOE expects that the range of potential increase of thermal conductivity for a 48-hour period is small; however, in response to Bally's concerns, DOE will reduce the allowable window after cutting from 48 hours to a maximum of 24 hours to remain conservative.

4. Specimen Conditioning Temperatures

Bally suggested that specimens be conditioned at the mean temperatures at which they would be tested, namely 20 degrees Fahrenheit for freezers and 55 degrees Fahrenheit for coolers. (Bally, No. 93 at p. 4) However, it offered no rationale, evidence or data in support of this suggestion. DOE understands that the intent of the conditioning is to ensure consistency in the moisture level within the sample during testing. DOE expects that the closed cell insulation materials typically used for WICF panels would not rapidly change their internal moisture levels, neither absorbing a significant amount of moisture in a 24-hour period under normal ranges of ambient conditions, nor rejecting a significant amount of excess moisture in a reasonable time period, due to the closed-cell structure of the foam. As indicated in ASTM C518–04 testing for WICF panels, section 7.3, conditioning information is typically provided in the material specification for the material being tested, but DOE is not aware of any such conditioning specifications for insulation materials typically used for WICF panels. Further, DOE is concerned that conditioning at cooled temperatures could cause condensation when removed from a cooled conditioning environment and introduced to a warmer room temperature in a test laboratory. Finally, DOE is concerned that requiring a WICF panel, often 8 feet by 4 feet in area, to be chilled to 20 degrees Fahrenheit for an extended period of time may introduce undue test burden. Therefore, DOE is not requiring conditioning requirements beyond those already established by Section 7.3 of ASTM C518–04.

5. Flatness Tolerances on Contact Surfaces

Regarding its proposal to add parallelism and flatness constraints on the two surfaces that contact the heat flow meter hot and cold plates, DOE received two comments. That proposal, which included a tolerance range of ±0.03 inches, would apply to both parallelism and flatness. See 79 FR at 9844. AHRI stated that the proposed tolerances ''are impractical for the purposes of the proposed test, are inconsistent with normal WICF panel manufacturers' standard processes and are likely not within the capabilities of most current panel manufacturing processes.'' AHRI recommended that DOE withdraw this proposal. (AHRI,

[3] ''Aging of Polyurethane Foam Insulation in Simulated Refrigerator Panels—Initial Results with Third-Generation Blowing Agents'' by Kenneth E. Wilkes et al., published by Oak Ridge National Laboratory for presentation at The Earth Technologies Forum, October 26–28, 1998, Figures 2 and 4(b).

No. 100 at p. 7) It did not, however, offer an alternative means for ensuring sufficient contact between the test sample surfaces and the surfaces of the heat flow meter assembly. Contact between these surfaces is critical to test accuracy, as air gaps between the heat flow meter apparatus surfaces and the test sample surfaces will result in a higher conductivity and lower thermal resistance. To address AHRI's concern, DOE clarifies that these tolerances will apply only to the cut faces of the test sample itself, not the manufactured panel. DOE also notes that, in support of this requirement, Bally (a manufacturer of WICF panels) stated that the tolerances were acceptable. (Bally, No. 93 at p. 3) As noted in section III.C.1, in DOE's view, manufacturers should be able to achieve these tolerances with common cutting tools and techniques.

6. Panel Testing Temperature Tolerances

With respect to the appropriate temperatures for testing panels, DOE proposed a tolerance of ± 1 degree Fahrenheit on the average foam temperature (20 degrees Fahrenheit for freezers and 55 degrees Fahrenheit for coolers). DOE proposed these provisions to help ensure test repeatability. AHRI and Bally both stated that this provision is appropriate and sufficient. (AHRI, No. 100 at p. 7 and Bally, No. 93 at p. 3) No other comments were received. Accordingly, DOE is adopting its proposed approach.

7. Additional Modifications to the Panel Test Procedure

DOE proposed a number of additional clarifications and modifications to the panel test procedure. No comments were received on these issues, which are listed immediately below.

- Clarify and remove redundancy in 10 CFR 431.304(b)(5) and (c)(5) regarding foam in its final chemical form;
- Introduce an equation for WICF panels consisting of two or more dissimilar insulating materials other than facers or protective skins; and
- Remove language in paragraphs (b), (b)(6), (c) and (c)(6) of 10 CFR 431.304 that referenced manufacturers.

In light of the absence of any comments regarding these proposals, DOE is adopting them as part of this final rule.

D. Performance-Based Test Procedures for Panels and Doors of Walk-In Coolers and Freezers

1. Panels

As described above, WICF panels must meet requirements for foam insulation R-values based on ASTM C518–04 testing incorporated in 10 CFR 431.304. Additionally, the test procedure at Appendix A to Subpart R of Part 431 (Uniform Test Method for the Measurement of Energy Consumption of the Components of Envelopes of Walk-In Coolers and Walk-In Freezers) establishes the method and metrics by which the energy consumption (for envelope components) or efficiency (for refrigeration components) may be measured; this includes floor and non-floor panels. Sections 4.2 and 4.3 of that procedure establish the calculation procedures that result in a thermal conductivity, U-value, energy use metric for floor and non-floor panels, and sections 5.1 and 5.2 establish the methods used to make the measurements. Section 5.1 incorporates by reference ASTM C1363–05 Standard Test Method for Thermal Performance of Building Materials and Envelope Assemblies by Means of a Hot Box Apparatus; section 5.2 incorporates by reference Annex C Determination of the aged values of thermal resistance and thermal conductivity of DIN EN 13164 and DIN EN 13165.

While ASTM C518–04 testing is intended to establish the thermal resistance of the center of a WICF panel, the required testing under ASTM C1363–05 is intended to capture the overall thermal transmittance of a WICF panel, including thermal bridges and edge effects. (Thermal transmittance is the reciprocal of thermal resistance.) Similar to ASTM C518–04, DIN EN 13164/13165 testing is intended to measure the thermal resistance of the center of a WICF panel; however, DIN EN 13164/13165 also captures the effects of foam aging on a panel's thermal resistance.

In response to the September 2013 standards NOPR, the Department received a number of comments regarding the WICF panel test procedure. The comments largely presented two concerns: test burden and the availability of laboratories to conduct these tests. In these comments, multiple manufacturers suggested that no independent laboratories were capable of conducting DIN EN 13164/13165 tests, and that only two were capable of conducting ASTM C1363–05 tests. Several comments suggested that the cost of these tests could be excessive, particularly given the limited availability of independent test laboratories to perform these specific tests. (See section III.D. of the February 2014 SNOPR for a full comment summary.)

Responding to these comments, DOE proposed in the February 2014 SNOPR to remove the portions of the test procedure that referenced ASTM C1363–04 and DIN EN 13164/13165 testing; this would remove sections 4.2, 4.3, 5.1 and 5.2 from 10 CFR 431, Appendix A of Subpart R. 79 FR at 9837.

DOE received several comments regarding its proposal to remove these portions of the WICF test procedure. Bally supported the proposal to remove these test portions in order to reduce testing burden. (Bally, No. 93 at p. 4) AHRI also supported their removal. (AHRI, No. 100 at p. 8). AHRI further recommended that DOE ''translate the proposed remaining test standard ASTM C518–04 to prescriptive requirements which would eliminate testing requirements.'' (AHRI, No. 100 p. 8) In contrast to these industry commenters, ASAP, et al. suggested that DOE should not remove the sections that require ASTM C1363–04 and DIN EN 13164/13165 testing. (ASAP, et al., No. 99 at p. 4) ASAP, et al. stated that DOE would not be able to adopt the performance-based standards based on U-values that were proposed in the September 2013 standards NOPR and that the estimated energy savings calculated in the September 2013 standards NOPR could therefore not be achieved. (ASAP, et al., No. 99 at p. 4) Additionally, ASAP, et al. believe that the U-value metric fulfills the requirement that DOE establish ''performance-based standards'' for walk-ins. Finally, ASAP, et al. suggested that DOE allow use of an AEDM that can accurately predict the overall U-value for panels, thereby reducing test burden. (ASAP, et al., No. 99 at p. 4)

DOE acknowledges that the estimated savings in the September 2013 standards NOPR were based on U-values. DOE also had not been aware of the considerable difficulties that affected parties would likely face in attempting to locate testing laboratories to assist them in performing the test in anticipation of any standards with which manufacturers would need to comply. Given these difficulties, in DOE's view, modifications to the procedure are necessary to ensure that some method of measuring panel efficiency can be readily conducted. The prescriptive requirements established by EPCA for WICF panels are effectively performance-based, as they regulate the thermal performance of WICF panels

and require a certain minimal level of performance be met. (DOE refers all interested parties to the standards rulemaking for updated estimates of the energy savings estimates, which will now be based on the R-value requirements (and U-factor for doors)). With respect to ASAP, et al.'s suggestion to allow use of an AEDM to predict U-factor, DOE notes that AEDMs must be validated by testing results and believes that even this minimal amount of testing would be burdensome in light of the lack of testing laboratories who can perform the testing required to obtain a U-value. In response to AHRI's request to translate the ASTM C518–04 test standard into prescriptive requirements, DOE notes that the required minimum R-value for panels is effectively a performance standard set forth by EPCA (42 U.S.C. 6313(f)(1)(C)) and the use of ASTM C518–04 for measuring the R-value is mandated by EPCA. (42 U.S.C. 6314(a)(9)(A))

2. Doors

With respect to the test procedure for doors, DOE is adopting several minor changes to section 5.3 for clarification purposes only. DOE is modifying the titles of section 5.3(a)(2) from ''Internal conditions'' to ''Cold-side conditions'' and section 5.3(a)(3) from ''External conditions'' to ''Warm-side conditions.'' The terms ''internal'' and ''external'' are irrelevant in the context of the testing apparatus described in NFRC 100[E0A1] (incorporated by reference). DOE is also making explicit the surface convective heat transfer coefficients referred to in paragraph (a)(1); these values are 30 Watts per meter-Kelvin (W/m-K) for the cold side of the hot box apparatus and 7.7 W/m-K for the warm side. This change only clarifies these terms. These values are specified in ASTM C1199–09 Standard Test Method for Measuring the Steady-State Thermal Transmittance of Fenestration Systems Using Hot Box Methods which is referred to by NFRC 100[E0A1]. These changes were also proposed as part of the February 2014 SNOPR.

In response to this SNOPR, AHRI indicated that they do not object to the proposed clarifications. (AHRI, No. 100 at p. 8) Bally, however, commented that they do not agree with evaluating non-display doors according to NFRC 100. (Bally, No. 93 at p. 4) Bally contended that ''surface convective heat transfer coefficients, in metric units [are] quite alien to us since convective heat transfer is such a small part of heat transfer except in high heat flow regions like fenestration.'' (Bally, No. 93 at p. 4) Bally also suggested that DOE's procedure based on NFRC 100 should be dropped or that, ''at a minimum, exclude view port windows with a total window surface area of 340 square inches or less.'' (Bally, No. 93 at p. 4) AHRI also suggested that non-display doors should have the option of meeting R-value-based standards. (AHRI, No. 100 at p. 8)

DOE acknowledges that doors are a type of fenestration; hence, DOE believes that NFRC 100 is appropriate for doors. The surface convective coefficients stipulated in ASTM C1199–09 (which is referenced by NFRC 100 by way of NFRC 102) are intended to ensure testing repeatability by establishing consistent boundary conditions. DOE reiterates that the changes proposed in the February 2014 SNOPR were for clarification purposes only, and that the substance of the test method is unchanged. With respect to Bally's suggestion that NFRC 100 be dropped or its application substantially modified, DOE infers that Bally is referring to NFRC 100 as a whole, and not just the convective surface coefficients specifically. DOE cannot abandon the use of NFRC 100 for measuring the performance of WICF doors without a viable alternative and Bally has offered none. With regards to non-display doors that include a small viewing port window, the presence of the window means that the information gained by measuring an overall door U-factor is all the more valuable given the thermal bridging the window creates. As previously stated, capturing the thermal bridging effects of all components in a door is critical in accurately reflecting its energy consumption due to the nature of fenestration. DOE is also reluctant to make an exception for non-display doors or doors with port windows, as it could potentially encourage manufacturers to add small windows to all of their doors, which would relieve them from having to meet performance standards. Should this occur, there would likely be an increase in energy consumption due to thermal bridging. Accordingly, DOE is leaving the NFRC 100 test in place for doors and display panels while clarifying the convective surface coefficients to be used for testing.

With respect to AHRI's suggestion that DOE apply R-value based standards to non-display doors, DOE notes that the scope of its proposal addresses only issues related to AEDMs as they would apply to walk-ins along with related test procedure requirements. Comments on the standards to which non-display doors should be held fall outside of that scope. Furthermore, even if DOE were to consider the possibility of applying an R-value-based standard—or any other standard—a non-display door includes more components in its assembly than a wall panel, which would make the consideration of potential standards for these items considerably more complex. According to the definition for ''door'' found in 10 CFR 431.302, the door ''includes the door panel, glass, framing materials, door plug, mullion, and any other elements that form the door or part of its connection to the wall.'' As such, there are more opportunities for thermal transmission. DOE believes that for doors (both display and non-display) capturing these effects by way of an overall U-factor through use of the NFRC 100 test procedure is critical for accurately reflecting the energy consumption of these WICF components. As a result, DOE is declining to adopt AHRI's suggestion in the context of today's rulemaking.

E. Sampling Plan

In order to determine a rating for certifying compliance and making energy use representations, DOE requires manufacturers to test each basic model in accordance with the applicable DOE test procedure and apply the sampling plan. DOE proposed a sampling plan for walk-ins consistent with other commercial equipment regulated under EPCA that would be included a proposed § 429.53 of Subpart B of 10 CFR Part 429. For consistency with other commercial equipment regulated under EPCA, DOE proposed that manufacturers test a sample of sufficient size of a WICF component basic model to ensure a representative rating—but not less than two units as prescribed in 10 CFR 429.11. DOE proposed that any represented energy consumption values of a walk-in basic model component shall be greater than or equal to the higher of the mean of the sample or the 95 percent upper confidence limit (UCL) of the true mean divided by 1.05. Additionally, DOE proposed that any represented energy efficiency values of a walk-in basic model component shall be the less than or equal to the lower of the mean of the sample or the 95 percent lower confidence limit (LCL) of the true mean divided by 0.95. DOE did not receive any comments on this proposal and so is adopting the proposed sampling requirements.

IV. Procedural Issues and Regulatory Review

A. Review Under Executive Order 12866

The Office of Management and Budget has determined that test procedure rulemakings do not constitute ''significant regulatory actions'' under

section 3(f) of Executive Order 12866, ''Regulatory Planning and Review,'' 58 FR 51735 (Oct. 4, 1993). Accordingly, this regulatory action was not subject to review under the Executive Order by the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB).

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601, et seq.) requires the preparation of a final regulatory flexibility analysis (FRFA) for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by Executive Order 13272, ''Proper Consideration of Small Entities in Agency Rulemaking,'' 67 FR 53461 (August 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the DOE rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel's Web site: www.gc.doe.gov. DOE reviewed the test procedures promulgated in today's final rule under the provisions of the Regulatory Flexibility Act (RFA) and the policies and procedures published on February 19, 2003.

As discussed in more detail below, DOE found that the provisions of this rule will not result in increased testing and/or reporting burden for manufacturers and permit additional manufacturers to use an AEDM for the purposes of rating and certifying their equipment, which would reduce manufacturer testing burden. Accordingly, based on DOE's review, manufacturers are unlikely to experience an increased financial burden because of the provisions established in today's final rule.

First, DOE is allowing manufacturers walk-in refrigeration systems to use an AEDM to determine the energy consumption of their products. Previously, no walk-in manufacturers were eligible to use an AEDM. Today's rule adopts voluntary methods for determining compliance in lieu of conducting actual physical testing—which, in turn, are expected to reduce the testing burden of walk-in manufacturers who elect to use an AEDM. Furthermore, the validation requirements for an AEDM do not require more testing than that which is already required under DOE's regulations at 10 CFR 429.12. While the Department believes that permitting greater use of AEDMs will reduce the affected manufacturer's test burden, their use is at the manufacturer's discretion. If, as a result of any of the regulations herein, a manufacturer believes that use of an AEDM would increase rather than decrease their financial burden compared to performing actual testing, the manufacturer may choose not to employ the method. Should a manufacturer choose to abstain from using an AEDM, this provision would not apply and the manufacturer would continue to remain subject to the requirements of the applicable DOE test procedures for walk-ins, which would result in no change in burden from that which was already required.

DOE is also codifying alternate methods for determining the compliance of individual walk-in refrigeration system components, which should further decrease the burden of the future test procedure for walk-in refrigeration systems. DOE is currently undertaking an energy conservation standards rulemaking to set performance standards for walk-in components, including panels, doors, and refrigeration systems. Under the provisions of the March 2011 Final Rule (76 FR 12422 (March 7, 2011)), the ''component'' manufacturer would be required to certify compliance with these standards once any applicable compliance date is reached—however, there were no provisions for manufacturers of individual refrigeration components (i.e., unit coolers and condensing units) to ensure the compliance of their components with an energy conservation standard because the proposed refrigeration system standard would apply to the whole refrigeration system. These manufacturers could potentially have incurred a large burden by having to test all combinations of the components they wished to distribute. Additionally, manufacturers of only one type of component could have been inadvertently prevented from selling their equipment because there would have been no available compliance mechanism. This rule establishes an alternate testing methodology by which manufacturers of either component of a walk-in refrigeration system—the condensing unit or the unit cooler—may determine compliance with the applicable standard without having to test every combination of components that they produce. DOE believes this approach will significantly reduce the testing burden for all manufacturers, including small businesses.

Finally, DOE is adopting several clarifications and modifications to the existing test procedures that are intended to further reduce testing burden. For example, DOE is not requiring the use of long-term thermal resistance testing of foam and is allowing manufacturers to test their panels based only on testing to ASTM C518, a simpler test method that is already in use in the industry. For a complete list of test procedure modifications, see section III.

For the reasons enumerated above, DOE is certifying that this final rule will not have a significant impact on a substantial number of small entities.

C. Review Under the Paperwork Reduction Act of 1995

A walk-in manufacturer must certify to DOE that its equipment complies with all applicable energy conservation standards. To certify compliance, manufacturers must test their products according to the DOE test procedures for walk-in equipment, including any amendments adopted for those test procedures. DOE has established regulations for the certification and recordkeeping requirements for all covered consumer products and commercial equipment, including walk-in coolers and freezers. 76 FR 12422 (March 7, 2011). The collection-of-information requirement for certification and recordkeeping is subject to review and approval by OMB under the Paperwork Reduction Act (PRA). This requirement has been approved by OMB under OMB control number 1910–1400. Public reporting burden for the certification is estimated to average 20 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

D. Review Under the National Environmental Policy Act of 1969

DOE is amending its test procedures and related provisions for walk-ins. DOE has determined that this rule falls into a class of actions that are categorically excluded from review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and DOE's implementing regulations at 10 CFR part 1021. This

rule amends the existing test procedures without affecting the amount, quality, or distribution of energy usage, and, therefore, will not result in any environmental impacts. Thus, this rulemaking is covered by Categorical Exclusion A5 under 10 CFR part 1021, subpart D, which applies to any rulemaking that interprets or amends an existing rule without changing the environmental effect of that rule. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

E. Review Under Executive Order 13132

Executive Order 13132, ''Federalism,'' 64 FR 43255 (August 10, 1999), imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. The Executive Order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States, and to carefully assess the necessity for such actions. The Executive Order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. (65 FR 13735) DOE has examined this rule and has tentatively determined that it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the products that are the subject of today's rule. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. (42 U.S.C. 6297) No further action is required by Executive Order 13132.

F. Review Under Executive Order 12988

Regarding the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, ''Civil Justice Reform,'' 61 FR 4729 (Feb. 7, 1996), imposes on Federal agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; (3) provide a clear legal standard for affected conduct rather than a general standard; and (4) promote simplification and burden reduction. Regarding the review required by section 3(a), section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in sections 3(a) and 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, the rule meets the relevant standards of Executive Order 12988.

G. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. (Pub. L. 104–4, sec. 201, codified at 2 U.S.C. 1531) For regulatory actions likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a)–(b)) UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a ''significant intergovernmental mandate,'' and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect them. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. (62 FR 12820) (This policy is also available at *http://www.energy.gov/gc*.) DOE examined today's rule according to UMRA and its statement of policy and has determined that the rule contains neither an intergovernmental mandate, nor a mandate that may result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of $100 million or more in any year. Accordingly, no further assessment or analysis is required under UMRA.

H. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. This rule would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

I. Review Under Executive Order 12630

Pursuant to Executive Order 12630, ''Governmental Actions and Interference with Constitutionally Protected Property Rights,'' 53 FR 8859 (March 18, 1988), DOE has determined that this rule would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

J. Review Under Treasury and General Government Appropriations Act, 2001

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for Federal agencies to review most disseminations of information to the public under information quality guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE's guidelines were published at 67 FR 62446 (Oct. 7, 2002). DOE has reviewed today's rule under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,'' 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OIRA at OMB, a Statement of Energy Effects for any significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgates or is expected to lead to promulgation of a

final rule, and that: (1) Is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (3) is designated by the Administrator of OIRA as a significant energy action. For any significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the rule be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

DOE has reviewed today's rule and determined, it would not have a significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as a significant energy action by the Administrator of OIRA. Therefore, it is not a significant energy action, and, accordingly, DOE has not prepared a Statement of Energy Effects for this rulemaking.

L. Review Under Section 32 of the Federal Energy Administration Act of 1974

Under section 301 of the Department of Energy Organization Act (Pub. L. 95–91; 42 U.S.C. 7101, *et seq.*), DOE must comply with all laws applicable to the former Federal Energy Administration, including section 32 of the Federal Energy Administration Act of 1974 (Pub. L. 93–275), as amended by the Federal Energy Administration Authorization Act of 1977 (Pub. L. 95–70). (15 U.S.C. 788; FEAA) Section 32 provides in relevant part that, where a rule authorizes or requires use of commercial standards, the notice of the final rule must inform the public of the use and background of such standards. In addition, section 32(c) requires DOE to consult with the Attorney General and the Chairman of the Federal Trade Commission (FTC) concerning the impact of the commercial or industry standards on competition. Today's rule does not incorporate any commercial standards. The commercial standards discussed in today's rulemaking were already adopted in the Test Procedures for Walk-In Coolers and Walk-In Freezers, which was published in the **Federal Register** on April 15, 2011. 76 FR 21580. DOE conducted a review under Section 32 of the Federal Energy Administration Act of 1974 in the April 2011 test procedure final rule. 76 FR 21580, 21604.

V. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of today's final rule.

List of Subjects

10 CFR Part 429

Administrative practice and procedure, Confidential business information, Energy conservation, Reporting and recordkeeping requirements.

10 CFR Part 431

Administrative practice and procedure, Confidential business information, Energy conservation, Incorporation by reference, Reporting and recordkeeping requirements.

Issued in Washington, DC, on May 5, 2014.

Kathleen B. Hogan,

Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.

For the reasons stated in the preamble, DOE is amending parts 429 and 431 of Chapter II, Subchapter D of Title 10, Code of Federal Regulations, as set forth below:

PART 429—CERTIFICATION, COMPLIANCE, AND ENFORCEMENT FOR CONSUMER PRODUCTS AND COMMERCIAL AND INDUSTRIAL EQUIPMENT

■ 1. The authority citation for part 429 continues to read as follows:

Authority: 42 U.S.C. 6291–6317.

■ 2. Section 429.53 is revised to read as follows:

§ 429.53 Walk-in coolers and walk-in freezers.

(a) *Determination of represented value*—(1) *Refrigeration equipment:* Manufacturers must determine the represented value, which includes the certified rating, for each basic model of walk-in cooler or freezer refrigeration equipment, either by testing, in conjunction with the applicable sampling provisions, or by applying an AEDM satisfying the criteria provided at § 429.70(f)(1).

(i) *Units to be tested.* (A) If the represented value for a given basic model is determined through testing, the general requirements of § 429.11 apply; and

(B) For each basic model selected for testing, a sample of sufficient size shall be randomly selected and tested to ensure that—

(*1*) Any represented value of energy consumption or other measure of energy use of a basic model for which consumers would favor lower values shall be greater than or equal to the higher of:

(*i*) The mean of the sample, where:

$$\bar{x} = \frac{1}{n}\sum_{i=1}^{n} x_i$$

and, $\bar{x}$ is the sample mean; n is the number of samples; and x_i is the ith sample; or,

(*ii*) The upper 95 percent confidence limit (UCL) of the true mean divided by 1.05, where:

$$UCL = \bar{x} + t_{0.95}\left(\frac{s}{\sqrt{n}}\right)$$

And $\bar{x}$ is the sample mean; s is the sample standard deviation; n is the number of samples; and $t_{0.95}$ is the t statistic for a 95% one-tailed confidence interval with n − 1 degrees of freedom (from Appendix A to subpart B). And,

(*2*) Any represented value of energy efficiency or other measure of energy consumption of a basic model for which consumers would favor higher values shall be less than or equal to the lower of:

(*i*) The mean of the sample, where:

$$\bar{x} = \frac{1}{n}\sum_{i=1}^{n} x_i$$

And, $\bar{x}$ is the sample mean; n is the number of samples; and x_i is the ith sample; or,

(*ii*) The lower 95 percent confidence limit (LCL) of the true mean divided by 0.95, where:

$$LCL = \bar{x} - t_{0.95}\left(\frac{s}{\sqrt{n}}\right)$$

And $\bar{x}$ is the sample mean; s is the sample standard deviation; n is the number of samples; and $t_{0.95}$ is the t statistic for a 95% one-tailed confidence interval with n − 1 degrees of freedom (from Appendix A to subpart B).

(ii) *Alternative efficiency determination methods.* In lieu of testing, a represented value of efficiency or consumption for a basic model of a walk-in cooler or freezer refrigeration system must be determined through the application of an AEDM pursuant to the requirements of § 429.70 and the provisions of this section, where:

(A) Any represented value of energy consumption or other measure of energy use of a basic model for which consumers would favor lower values shall be greater than or equal to the output of the AEDM and less than or equal to the Federal standard for that basic model; and

(B) Any represented value of energy efficiency or other measure of energy consumption of a basic model for which consumers would favor higher values shall be less than or equal to the output

of the AEDM and greater than or equal to the Federal standard for that basic model.

(iii) If the represented value of a refrigeration system was determined using the unit cooler testing provisions at 10 CFR 431.304(c)(12), that represented value may be used for all refrigeration systems containing that unit cooler irrespective of whether such equipment is sold separately or as part of a matched refrigeration system. However, for any representations of matched-system efficiency that exceed the refrigeration system rating as determined by the unit cooler testing provisions at 10 CFR 431.304(c)(12) and for which a manufacturer wishes to make representations of the more-efficient rating, then the matched refrigeration system must be tested separately in accordance with the DOE test procedure for matched systems and applicable sampling plan.

(2) *WICF components other than those specified in (a)(1) of this section*—(i) *Units to be tested.*

(A) The general requirements of § 429.11 apply; and

(B) For each basic model selected for testing, a sample of sufficient size shall be randomly selected and tested to ensure that—

(*1*) Any represented value of energy consumption or other measure of energy use of a basic model for which consumers would favor lower values shall be greater than or equal to the higher of:

(*i*) The mean of the sample, where:

$$\bar{x} = \frac{1}{n}\sum_{i=1}^{n} x_i$$

and, $\bar{x}$ is the sample mean; n is the number of samples; and x_i is the ith sample; or,

(*ii*) The upper 95 percent confidence limit (UCL) of the true mean divided by 1.05, where:

$$UCL = \bar{x} + t_{0.95}\left(\frac{s}{\sqrt{n}}\right)$$

And $\bar{x}$ is the sample mean; s is the sample standard deviation; n is the number of samples; and $t_{0.95}$ is the t statistic for a 95% one-tailed confidence interval with n − 1 degrees of freedom (from Appendix A to subpart B). And,

(*2*) Any represented value of energy efficiency or other measure of energy consumption of a basic model for which consumers would favor higher values shall be less than or equal to the lower of:

(*i*) The mean of the sample, where:

$$\bar{x} = \frac{1}{n}\sum_{i=1}^{n} x_i$$

And, $\bar{x}$ is the sample mean; n is the number of samples; and x_i is the ith sample; or,

(*ii*) The lower 95 percent confidence limit (LCL) of the true mean divided by 0.95, where:

$$LCL = \bar{x} - t_{0.95}\left(\frac{s}{\sqrt{n}}\right)$$

And $\bar{x}$ is the sample mean; s is the sample standard deviation; n is the number of samples; and $t_{0.95}$ is the t statistic for a 95% one-tailed confidence interval with n − 1 degrees of freedom (from Appendix A to subpart B).

(b) *Certification reports.* (1) The requirements of § 429.12 are applicable to manufacturers of the components of walk-in coolers and freezers (WICFs) listed in paragraph (b)(2) of this section, and;

(2) Pursuant to § 429.12(b)(13), a certification report shall include the following public product-specific information:

(i) For WICF doors: The door type, R-value of the door insulation, and a declaration that the manufacturer has incorporated the applicable design requirements. In addition, for those WICFs with transparent reach-in doors and windows: The glass type of the doors and windows (e.g., double-pane with heat reflective treatment, triple-pane glass with gas fill), and the power draw of the antisweat heater in watts per square foot of door opening.

(ii) For WICF panels: The R-value of the insulation (except for glazed portions of the doors or structural members).

(iii) For WICF refrigeration systems: The motor's purpose (i.e., evaporator fan motor or condenser fan motor), the horsepower, and a declaration that the manufacturer has incorporated the applicable design requirements.

■ 3. Section 429.70 is amended by adding paragraph (f) to read as follows:

§ 429.70 Alternative methods for determining energy efficiency or energy use.

* * * * *

(f) *Alternative efficiency determination method (AEDM) for walk-in refrigeration equipment*—

(1) *Criteria an AEDM must satisfy.* A manufacturer may not apply an AEDM to a basic model to determine its efficiency pursuant to this section unless:

(i) The AEDM is derived from a mathematical model that estimates the energy efficiency or energy consumption characteristics of the basic model as measured by the applicable DOE test procedure;

(ii) The AEDM is based on engineering or statistical analysis, computer simulation or modeling, or other analytical evaluation of performance data; and

(iii) The manufacturer has validated the AEDM, in accordance with paragraph (f)(2) of this section.

(2) *Validation of an AEDM.* Before using an AEDM, the manufacturer must validate the AEDM's accuracy and reliability as follows:

(i) The manufacturer must select at least the minimum number of basic models for each validation class specified in paragraph (f)(2)(iv) of this section to which the particular AEDM applies. Test a single unit of each basic model in accordance with paragraph (f)(2)(iii) of this section. Using the AEDM, calculate the energy use or energy efficiency for each of the selected basic models. Compare the results from the single unit test and the AEDM output according to paragraph (f)(2)(ii) of this section. The manufacturer is responsible for ensuring the accuracy and repeatability of the AEDM.

(ii) *Individual model tolerances.* (A) The predicted efficiency for each model calculated by applying the AEDM may not be more than five percent greater than the efficiency determined from the corresponding test of the model.

(B) The predicted energy efficiency for each model calculated by applying the AEDM must meet or exceed the applicable federal energy conservation standard.

(iii) *Additional test unit requirements.* (A) Each AEDM must be supported by test data obtained from physical tests of current models; and

(B) Test results used to validate the AEDM must meet or exceed current, applicable Federal standards as specified in part 431 of this chapter;

(C) Each test must have been performed in accordance with the applicable DOE test procedure with which compliance is required at the time the basic model is distributed in commerce; and

(D) For rating WICF refrigeration system components, an AEDM may not simulate or model portions of the system that are not required to be tested by the DOE test procedure. That is, if the test results used to validate the AEDM are for either a unit cooler only or a condensing unit only, the AEDM must estimate the system rating using the nominal values specified in the DOE test procedure for the other part of the refrigeration system.

(iv) *WICF refrigeration validation classes.*

Validation class	Minimum number of distinct models that must be tested
Dedicated Condensing, Medium Temperature, Indoor System	2 Basic Models.
Dedicated Condensing, Medium Temperature, Outdoor System [1]	2 Basic Models.
Dedicated Condensing, Low Temperature, Indoor System	2 Basic Models.
Dedicated Condensing, Low Temperature, Outdoor System [2]	2 Basic Models.
Unit Cooler connected to a Multiplex Condensing Unit, Medium Temperature	2 Basic Models.
Unit Cooler connected to a Multiplex Condensing Unit, Low Temperature	2 Basic Models.
Medium Temperature, Indoor Condensing Unit	2 Basic Models.
Medium Temperature, Outdoor Condensing Unit [3]	2 Basic Models.
Low Temperature, Indoor Condensing Unit	2 Basic Models.
Low Temperature, Outdoor Condensing Unit [4]	2 Basic Models.

[1] AEDMs validated for dedicated condensing, medium temperature, outdoor systems may be used to determine representative values for dedicated condensing, medium temperature, indoor systems, and additional validation testing is not required. AEDMs validated for only dedicated condensing, medium temperature, indoor systems may not be used to determine representative values for dedicated condensing, medium temperature, outdoor systems.

[2] AEDMs validated for dedicated condensing, low temperature, outdoor systems may be used to determine representative values for dedicated condensing, low temperature, indoor systems, and additional validation testing is not required. AEDMs validated for only dedicated condensing, low temperature, indoor systems may not be used to determine representative values for dedicated condensing, low temperature, outdoor systems.

[3] AEDMs validated for medium temperature, outdoor condensing units may be used to determine representative values for medium temperature, indoor condensing units, and additional validation testing is not required. AEDMs validated for only medium temperature, indoor condensing units may not be used to determine representative values for medium temperature, outdoor condensing units.

[4] AEDMs validated for low temperature, outdoor condensing units may be used to determine representative values for low temperature, indoor condensing units, and additional validation testing is not required. AEDMs validated for only low temperature, indoor condensing units may not be used to determine representative values for low temperature, outdoor condensing units.

(3) *AEDM records retention requirements.* If a manufacturer has used an AEDM to determine representative values pursuant to this section, the manufacturer must have available upon request for inspection by the Department records showing:

(i) The AEDM, including the mathematical model, the engineering or statistical analysis, and/or computer simulation or modeling that is the basis of the AEDM;

(ii) Equipment information, complete test data, AEDM calculations, and the statistical comparisons from the units tested that were used to validate the AEDM pursuant to paragraph (f)(2) of this section; and

(iii) Equipment information and AEDM calculations for each basic model to which the AEDM has been applied.

(4) *Additional AEDM requirements.* If requested by the Department the manufacturer must perform at least one of the following:

(i) Conduct simulations before representatives of the Department to predict the performance of particular basic models of the product to which the AEDM was applied;

(ii) Provide analyses of previous simulations conducted by the manufacturer; or

(iii) Conduct certification testing of basic models selected by the Department.

(5) *AEDM verification testing.* DOE may use the test data for a given individual model generated pursuant to § 429.104 to verify the certified rating determined by an AEDM as long as the following process is followed:

(i) *Selection of units.* DOE will obtain units for test from retail, where available. If units cannot be obtained from retail, DOE will request that a unit be provided by the manufacturer.

(ii) *Lab requirements.* DOE will conduct testing at an independent, third-party testing facility of its choosing. In cases where no third-party laboratory is capable of testing the equipment, it may be tested at a manufacturer's facility upon DOE's request.

(iii) *Manufacturer participation.* Testing will be performed without manufacturer representatives on-site.

(iv) *Testing.* All verification testing will be conducted in accordance with the applicable DOE test procedure, as well as each of the following to the extent that they apply:

(A) Any active test procedure waivers that have been granted for the basic model;

(B) Any test procedure guidance that has been issued by DOE;

(C) If during test set-up or testing, the lab indicates to DOE that it needs additional information regarding a given basic model in order to test in accordance with the applicable DOE test procedure, DOE may organize a meeting between DOE, the manufacturer and the lab to provide such information.

(D) At no time during the process may the lab communicate directly with the manufacturer without DOE present.

(v) *Failure to meet certified rating.* If a model tests worse than its certified rating by an amount exceeding the tolerance prescribed in paragraph (f)(5)(vi) of this section, DOE will notify the manufacturer. DOE will provide the manufacturer with all documentation related to the test set up, test conditions, and test results for the unit. Within the timeframe allotted by DOE, the manufacturer may then present all claims regarding testing validity.

(vi) *Tolerances.* for efficiency metrics, the result from a DOE verification test must be greater than or equal to the certified rating × (1 − the applicable tolerance).

Equipment	Metric	Applicable tolerance
Refrigeration systems (including components)	AWEF	5%

(vii) *Invalid rating.* If, following discussions with the manufacturer and a retest where applicable, DOE determines that the testing was conducted appropriately in accordance with the DOE test procedure, the rating for the model will be considered invalid. Pursuant to 10 CFR 429.13(b), DOE may require a manufacturer to conduct additional testing as a remedial measure.

PART 431—ENERGY CONSERVATION PROGRAM FOR CERTAIN COMMERCIAL AND INDUSTRIAL EQUIPMENT

■ 4. The authority citation for part 431 continues to read as follows:

Authority: 42 U.S.C. 6291–6317.

§ 431.303 [Amended]

■ 5. Section 431.303 is amended by:
■ a. Removing and reserving paragraph (c)(2);
■ b. Removing paragraph (d); and
■ c. Redesignating paragraph (e) as (d).

■ 6. Section 431.304 is amended by:
■ a. Revising paragraphs (b) introductory text, and (b)(3) through (6);
■ b. Adding paragraph (b)(7);
■ c. Revising paragraphs (c) introductory text, and (c)(3) through (6);
■ d. Redesignating paragraphs (c)(7) through (c)(10) as paragraphs (c)(8) through (c)(11), respectively;
■ e. Adding new paragraph (c)(7);
■ f. Revising redesignated paragraph (c)(8), (c)(9) and (c)(10); and,
■ g. Adding paragraph (c)(12).

The revisions and additions read as follows:

§ 431.304 Uniform test method for the measurement of energy consumption of walk-in coolers and walk-in freezers.

* * * * *

(b) This paragraph (b) shall be used for the purposes of certifying compliance with the applicable R-value energy conservation standards for panels until compliance with amended standards is required.

* * * * *

(3) When calculating the R value for freezers, the K factor of the foam at 20 ± 1 degrees Fahrenheit (average foam temperature) shall be used. Test results from a test sample 1 ± 0.1-inches in thickness may be used to determine the R value of panels with various foam thickness as long as the foam is of the same final chemical form.

(4) When calculating the R value for coolers, the K factor of the foam at 55 ± 1 degrees Fahrenheit (average foam temperature) shall be used. Test results from a test sample 1 ± 0.1-inches in thickness may be used to determine the R value of panels with various foam thickness as long as the foam is of the same final chemical form.

(5) Foam shall be tested after it is produced in its final chemical form. (For foam produced inside of a panel (''foam-in-place''), ''final chemical form'' means the foam is cured as intended and ready for use as a finished panel. For foam produced as board stock (typically polystyrene), ''final chemical form'' means after extrusion and ready for assembly into a panel or after assembly into a panel.) Foam from foam-in-place panels must not include any structural members or non-foam materials. Foam produced as board stock may be tested prior to its incorporation into a final panel. A test sample 1 ± 0.1-inches in thickness must be taken from the center of a panel and any protective skins or facers must be removed. A high-speed band-saw and a meat slicer are two types of recommended cutting tools. Hot wire cutters or other heated tools must not be used for cutting foam test samples. The two surfaces of the test sample that will contact the hot plate assemblies (as defined in ASTM C518 (incorporated by reference, see § 431.303)) must both maintain ±0.03 inches flatness tolerance and also maintain parallelism with respect to one another within ±0.03 inches. Testing must be completed within 24 hours of samples being cut for testing.

(6) Internal non-foam member and/or edge regions shall not be considered in ASTM C518 testing.

(7) For panels consisting of two or more layers of dissimilar insulating materials (excluding facers or protective skins), test each material as described in paragraphs (c)(1) through (6) of this section. For a panel with *N* layers of insulating material, the overall R-Value shall be calculated as follows:

$$R_{panel} = \sum_{i=1}^{N} \frac{t_i}{k_i}$$

Where:

k_i is the k factor of the *i*th material as measured by ASTM C518,

t_i is the thickness of the *i*th material that appears in the panel, and

N is the total number of material layers that appears in the panel.

(c) This paragraph (c) shall be used for any representations of energy efficiency or energy use starting on October 12, 2011, and to certify compliance to the energy conservation standards of the R-value of panels on or after the compliance date of amended energy conservation standards for walk-in cooler and freezers.

* * * * *

(3) For calculating the R value for freezers, the K factor of the foam at 20 ± 1 degrees Fahrenheit (average foam temperature) shall be used. Test results from a test sample 1 ± 0.1-inches in thickness may be used to determine the R value of panels with various foam thickness as long as the foam is of the same final chemical form.

(4) For calculating the R value for coolers, the K factor of the foam at 55 ± 1 degrees Fahrenheit (average foam temperature) shall be used. Test results from a test sample 1 ± 0.1-inches in thickness may be used to determine the R value of panels with various foam thickness as long as the foam is of the same final chemical form.

(5) Foam shall be tested after it is produced in its final chemical form. (For foam produced inside of a panel (''foam-in-place''), ''final chemical form'' means the foam is cured as intended and ready for use as a finished panel. For foam produced as board stock (typically polystyrene), ''final chemical form'' means after extrusion and ready for assembly into a panel or after assembly into a panel.) Foam from foam-in-place panels must not include any structural members or non-foam materials. Foam produced as board stock may be tested prior to its incorporation into a final panel. A test sample 1 ± 0.1-inches in thickness must be taken from the center of a panel and any protective skins or facers must be removed. A high-speed band-saw and a meat slicer are two types of recommended cutting tools. Hot wire cutters or other heated tools must not be used for cutting foam test samples. The two surfaces of the test sample that will contact the hot plate assemblies (as defined in ASTM C518 (incorporated by reference, see § 431.303)) must both maintain ±0.03 inches flatness tolerance and also maintain parallelism with respect to one another within ±0.03 inches. Testing must be completed within 24 hours of samples being cut for testing.

(6) Internal non-foam member and/or edge regions shall not be considered in ASTM C518 testing.

(7) For panels consisting of two or more layers of dissimilar insulating materials (excluding facers or protective skins), test each material as described in paragraphs (c)(1) through (6) of this section. For a panel with *N* layers of insulating material, the overall R-Value shall be calculated as follows:

$$R_{panel} = \sum_{i=1}^{N} \frac{t_i}{k_i}$$

Where:

k_i is the k factor of the *i*th material as measured by ASTM C518, and

t_i is the thickness of the *i*th material that appears in the panel.

N is the total number of material layers that appears in the panel.

(8) Determine the U-factor, conduction load, and energy use of walk-in cooler and walk-in freezer display panels by conducting the test procedure set forth in appendix A to this subpart section 4.1.

(9) Determine the energy use of walk-in cooler and walk-in freezer display doors and non-display doors by conducting the test procedure set forth in appendix A to this subpart, sections 4.4 and 4.5, respectively.

(10) Determine the Annual Walk-in Energy Factor of walk-in cooler and walk-in freezer refrigeration systems by conducting the test procedure set forth in AHRI 1250–2009 (incorporated by reference; see § 431.303), with the following modifications:

(i) In Table 2, Test Operating and Test Condition Tolerances for Steady-State Test, electrical power frequency shall have a Test Condition Tolerance of 1 percent. Also, refrigerant temperature measurements shall have a tolerance of ± 0.5 F for unit cooler in/out, ± 1.0 F for all other temperature measurements.

(ii) In Table 2, the Test Operating Tolerances and Test Condition Tolerances for Air Leaving Temperatures shall be deleted.

(iii) In Tables 2 through 14, The Test Condition Outdoor Wet Bulb Temperature requirement and its associated tolerance apply only to units with evaporative cooling.

(iv) In section C3.1.6, refrigerant temperature measurements upstream and downstream of the unit cooler may use sheathed sensors immersed in the flowing refrigerant instead of thermometer wells.

(v) In section C3.5, for a given motor winding configuration, the total power input shall be measured at the highest nameplate voltage. For three-phase power, voltage imbalances shall be no more than 2 percent from phase to phase.

(vi) In the test setup (section C8.3), the condenser and unit cooler shall be connected by pipes of the manufacturer-specified size. The pipe lines shall be insulated with a minimum total thermal resistance equivalent to ½″ thick insulation having a flat-surface R-Value of 3.7 ft^2-°F-hr/Btu per inch or greater. Flow meters need not be insulated but must not be in contact with the floor. The lengths of the connected liquid line and suction line shall be 25 feet, not including the requisite flow meters, each. Of this length, no more than 15 feet shall be in the conditioned space. In the case where there are multiple branches of piping, the maximum length of piping applies to each branch individually as opposed to the total length of the piping.

(vii) In section C3.4.5, for verification of sub-cooling downstream of mass flow meters, only the sight glass and a temperature sensor located on the tube surface under the insulation are required.

(viii) Delete section C3.3.6.

(ix) In section C11.1, to determine frost load defrost conditions, the Frost Load Conditions Defrost Test (C11.1.1) is optional. If the frost load test is not performed, the frost load defrost DF_f shall be equal to 1.05 multiplied by the dry coil energy consumption DF_d measured using the dry coil condition test in section C11.1 and the number of defrosts per day N_{DF} shall be set to 4.

(x) In section C11.2, if the system has an adaptive or demand defrost system, the optional test may be run as specified to establish the number of defrosts per day under dry coil conditions and this number shall be averaged with the number of defrosts per day calculated under the frost load conditions. If the system has an adaptive or demand defrost system and the optional test is not run, the number of defrosts per day N_{DF} shall be set to the average of 1 and the number of defrosts per day calculated under the frost load conditions (paragraph (c)(8)(ix) of this section).

(xi) In section C11.3, if the frost load test is not performed, the daily contribution of the load attributed to defrost Q_{DF} in Btu shall be calculated as follows:

$$Q_{DF} = 0.95 \times 3.412 \text{ Btu/W-h} \times \frac{DF_d + DF_f}{2} \times N_{DF}$$

Where:

DF_d = the defrost energy, in W-h, at the dry coil condition

DF_f = the defrost energy, in W-h, at the frosted coil condition

N_{DF} = the number of defrosts per day

(xii) In section C11, if the unit utilizes hot gas defrost, Q_{DF} and DF shall be calculated as follows:

Q_{DF} = 0.18 Btu/defrost per Btu/h capacity × $Q_{ref} \times N_{DF}$

Where:

Q_{ref} = Gross refrigeration capacity in Btu/h as measured at the high ambient condition (90 °F for indoor systems and 95 °F for outdoor systems)

N_{DF} = Number of defrosts per day; this value shall be set to the number recommended in the installation instructions for the unit (or if no instructions, shall be set to 4) for units without adaptive defrost and 2.5 for units with adaptive defrost

For unit coolers connected to a multiplex system: The defrost energy, DF, in W-h = 0

For dedicated condensing systems or condensing units tested separately:

$DF = 0.5 \times Q_{DF}/3.412$ Btu/W-h

(xiii) Delete section C3.4.6.

(xiv) *Off-cycle evaporator fan test.* In lieu of section C10, follow the following procedures: Upon the completion of the steady state test for walk-in systems, the compressors of the walk-in systems shall be turned off. The unit cooler's fans' power consumption shall be measured in accordance with the requirements in Section C3.5. Off-cycle fan power shall be equal to on-cycle fan power unless evaporator fans are controlled by a qualifying control. Qualifying evaporator fan controls shall have a user adjustable method of destratifying air during the off-cycle including but not limited to: adjustable fan speed control or periodic ''stir cycles.'' Qualifying evaporator fan controls shall be adjusted so that the greater of a 50% duty cycle or the manufacturer default is used for measuring off-cycle fan energy. For variable speed controls, the greater of 50% fan speed or the manufacturer's default fan speed shall be used for measuring off-cycle fan energy. When a cyclic control is used at least three full ''stir cycles'' are measured.

(xv) In lieu of Table 15 and Table 16, use the following Tables:

TABLE 15—REFRIGERATOR UNIT COOLER

Test description	Unit cooler air entering dry-bulb, °F	Unit cooler air entering relative humidity, %	Saturated suction temp, °F	Liquid inlet saturation temp, °F	Liquid inlet subcooling temp, °F	Compressor capacity	Test objective
Off Cycle Fan Power.	35	<50	—	—	—	Compressor Off.	Measure fan input power during compressor off cycle.
Refrigeration Capacity Suction A.	35	<50	25	105	9	Compressor On.	Determine Net Refrigeration Capacity of Unit Cooler.
Refrigeration Capacity Suction B.	35	<50	20	105	9	Compressor On.	Determine Net Refrigeration Capacity of Unit Cooler.

Note: Superheat to be set according to equipment specification in equipment or installation manual. If no superheat specification is given, a default superheat value of 6.5 °F shall be used. The superheat setting used in the test shall be reported as part of the standard rating.

TABLE 16—FREEZER UNIT COOLER

Test Description	Unit cooler air entering dry-bulb, °F	Unit cooler air entering relative humidity, %	Saturated suction temp, °F	Liquid inlet saturation temp, °F	Liquid inlet subcooling temp, °F	Compressor capacity	Test objective
Off Cycle Fan Power.	−10	<50	—	—	—	Compressor Off.	Measure fan input power during compressor off cycle.
Refrigeration Capacity Suction A.	−10	<50	25	105	9	Compressor On.	Determine Net Refrigeration Capacity of Unit Cooler.
Refrigeration Capacity Suction B.	−10	<50	20	105	9	Compressor On.	Determine Net Refrigeration Capacity of Unit Cooler.
Defrost	−10	Various	—	—	—	Compressor Off.	Test according to Appendix C Section C11.

Note: Superheat to be set according to equipment specification in equipment or installation manual. If no superheat specification is given, a default superheat value of 6.5 °F shall be used. The superheat setting used in the test shall be reported as part of the standard rating.

* * * * *

(12) *Calculation of AWEF for a walk-in cooler and freezer refrigeration system component distributed individually.* This section only applies to fixed capacity condensing units. Multiple-capacity condensing units must be tested as part of a matched system.

(i) Calculate the AWEF for a refrigeration system containing a unit cooler that is distributed individually using the method for testing a unit cooler connected to a multiplex condensing system.

(ii) Calculate the AWEF for a refrigeration system containing a condensing unit that is distributed individually using the following nominal values:

Saturated suction temperature at the evaporator coil exit T_{evap} (°F) = 25 for coolers and −20 for freezers

For medium temperature (cooler) condensing units: On-cycle evaporator fan power $EF_{comp,\ on}$ (W) = 0.013 W-h/Btu × $q_{mix,\ cd}$ (Btu/h); where $q_{mix,\ cd}$ is the gross cooling capacity at the highest ambient rating condition (90 °F for indoor units and 95 °F for outdoor units)

For low temperature (freezer) condensing units: On-cycle evaporator fan power $EF_{comp,\ on}$ (W) = 0.016 W-h/Btu × $q_{mix,\ cd}$ (Btu/h); where $q_{mix,\ cd}$ is the gross cooling capacity at the highest ambient rating condition (90 °F for indoor units and 95 °F for outdoor units)

Off-cycle evaporator fan power $EF_{comp,\ off}$ (W) = 0.2 × $EF_{comp,\ on}$ (W)

For medium temperature (cooler) condensing units: Daily defrost energy use DF (W-h) = 0 and daily defrost heat load contribution Q_{DF} (Btu) = 0

For low temperature (freezer) condensing units without hot gas defrost capability:

Daily defrost energy use DF (W-h) = $8.5 \times 10^{-3} \times (q_{mix,\ cd}\ (Btu/h))^{1.27} \times N_{DF}$ for freezers

Defrost heat load contribution Q_{DF} (Btu) = 0.95 × DF (W-h)/3.412 Btu/W-h

For low temperature (freezer) condensing units with hot gas defrost capability, DF and Q_{DF} shall be calculated using the method in paragraph (c)(10)(xii) of this section.

The number of defrost cycles per day (N_{DF}) shall be set to the number recommended in the installation instructions for the unit (or if no instructions, shall be set to 2.5).

■ 7. Appendix A to Subpart R of Part 431 is amended by:

■ a. Removing and reserving sections 4.2, 4.3, 5.1, and 5.2;

■ b. Revising paragraph 5.3(a)(1);

■ c. Removing in paragraph 5.3(a)(2) introductory text ''Internal'' and adding ''Cold-side'' in its place; and

■ d. Removing in paragraph 5.3(a)(3) introductory text ''External'' and adding ''Warm-side'' in its place.

The revision reads as follows:

Appendix A to Subpart R of Part 431—Uniform Test Method for the Measurement of Energy Consumption of the Components of Envelopes of Walk-In Coolers and Walk-In Freezers

* * * * *

4.2 [Reserved]

4.3 [Reserved]

* * * * *

5.1 [Reserved]

5.2 [Reserved]

5.3 * * *

(a) * * *

(1) The average surface heat transfer coefficient on the cold-side of the apparatus shall be 30 Watts per square-meter-Kelvin (W/m^2*K) ± 5%. The average surface heat transfer coefficient on the warm-side of the apparatus shall be 7.7 Watts per square-meter-Kelvin (W/m^2*K) ± 5%.

* * * * *

[FR Doc. 2014–10721 Filed 5–12–14; 8:45 am]

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Part III

Department of Commerce

Bureau of Industry and Security

15 CFR Parts 732, 734, 736, *et al.*

Revisions to the Export Administration Regulations (EAR): Control of Spacecraft Systems and Related Items the President Determines No Longer Warrant Control Under the United States Munitions List (USML); Final Rule

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Parts 732, 734, 736, 740, 742, 744, 748, 758, 772, 774

[Docket No. 130110030–3740–02]

RIN 0694–AF87

Revisions to the Export Administration Regulations (EAR): Control of Spacecraft Systems and Related Items the President Determines No Longer Warrant Control Under the United States Munitions List (USML)

AGENCY: Bureau of Industry and Security, Department of Commerce.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule adds controls to the Export Administration Regulations (EAR) for spacecraft and related items that the President has determined no longer warrant control under United States Munitions List (USML) Category XV—spacecraft and related items. New Export Control Classification Numbers (ECCNs) 9A515, 9B515, 9D515, and 9E515 created by this rule and existing ECCNs on the Commerce Control List (CCL) will control such items. This rule also revises various sections of the EAR to provide the proper level of control for the new ECCNs.

This rule is being published in conjunction with the publication of a Department of State, Directorate of Defense Trade Controls rule revising USML Category XV to control those articles the President has determined warrant control on the USML. Both rules are part of the President's Export Control Reform Initiative. The revisions in this final rule are also part of Commerce's retrospective regulatory review plan under Executive Order (EO) 13563 (see the **SUPPLEMENTARY INFORMATION** for availability of the plan). This rule is being published as an interim final rule because the Departments of Commerce and State acknowledge that additional internal analysis of and industry input regarding the control threshold for various aspects of the amendments is warranted, particularly with respect to civil and commercial remote sensing satellites and civil and commercial space flight-related items. The Departments did not want to wait until this review is done to publish this rule in final form because of the substantial national and economic security benefits that will flow from the various amendments to the controls on satellites and related items.

DATES: *Effective Date:* This rule is effective June 27, 2014 except for amendatory instruction 8, which is effective July 1, 2014, and amendatory instructions 28–47, 49–50, 52, and 54, which are effective November 10, 2014.

Comment Date: Comments must be received by November 10, 2014.

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

- Federal eRulemaking Portal: *http://www.regulations.gov*. The identification number for this rulemaking is BIS–2013–0012.
- By email directly to *publiccomments@bis.doc.gov*. Include RIN 0694–AF87 in the subject line.
- By mail or delivery to Regulatory Policy Division, Bureau of Industry and Security, U.S. Department of Commerce, Room 2099B, 14th Street and Pennsylvania Avenue NW., Washington, DC 20230. Refer to RIN 0694–AF87.

FOR FURTHER INFORMATION CONTACT: For questions about the ECCNs included in this rule, contact Dennis Krepp, Office of National Security and Technology Transfer Controls, Bureau of Industry and Security, U.S. Department of Commerce, Telephone: 202–482–1309, email: *Dennis.Krepp@bis.doc.gov*. For general questions about the regulatory changes pertaining to satellites, spacecraft, and related items, contact Robert Monjay, Regulatory Policy Division, Office of Exporter Services, Bureau of Industry and Security, at 202–482–2440 or *Robert.Monjay@bis.doc.gov*.

SUPPLEMENTARY INFORMATION:

Background

The Bureau of Industry and Security (BIS) is publishing this interim final rule with request for comments as part of the Administration's Export Control Reform (ECR) Initiative. President Obama directed the Administration in August 2009 to conduct a broad-based review of the U.S. export control system to identify additional ways to enhance national security. In April 2010, then-Secretary of Defense Robert M. Gates, describing the initial results of that effort, explained that fundamental reform of the U.S. export control system is necessary to enhance our national security. The implementation of ECR includes amending the International Traffic in Arms Regulations (ITAR) and its U.S. Munitions List (USML) so that they control only those items that provide the United States with a critical military or intelligence advantage or otherwise warrant such controls, and amending the Export Administration Regulations (EAR) to control the formerly ITAR-controlled items that do not warrant the controls of the ITAR.

On January 2, 2013, President Obama signed the National Defense Authorization Act for Fiscal Year 2013 (''2013 NDAA'') (Pub. L. 112–239). Section 1261 of the 2013 NDAA amended Section 1513 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (''1999 NDAA'') by striking the requirement that all satellites and related items be subject to the export control jurisdiction of the ITAR. The 2013 NDAA authorized the President, pursuant to section 38(f) of the Arms Export Control Act (AECA) (22 U.S.C. 2778(f)), to review Category XV of the USML ''to determine what items, if any, no longer warrant export controls under'' the AECA. On May 24, 2013, the Department of State, Directorate of Defense Trade Controls (DDTC) published a proposed rule, *Amendment to the International Traffic in Arms Regulations: Revision of U.S. Munitions List Category XV and Definition of ''Defense Service''* (78 FR 31444) (herein ''the companion proposed DDTC rule'') setting forth the proposed revised USML Category XV. On the same day, BIS published a companion proposed rule, *Export Administration Regulations (EAR): Control of Spacecraft Systems and Related Items the President Determines No Longer Warrant Control Under the United States Munitions List (USML)* (78 FR 31431) (herein ''the May 24 (spacecraft) rule''), describing the revisions to the EAR required to exercise control over those spacecraft and related items no longer listed in USML Category XV and setting forth the proposed 9x515 ECCNs.

This interim final rule implements the proposal of the May 24 (spacecraft) rule to create four new 9x515 ECCNs in CCL Category 9 (ECCNs 9A515, 9B515, 9D515, and 9E515) to describe the EAR controls over items the President determines no longer warrant control under USML Category XV and that are not otherwise within the scope of an existing ECCN. New ECCN 9A515 applies to spacecraft, ground stations, and ''specially designed'' parts, components, accessories and attachments. New ECCN 9B515 applies to related test, inspection and production equipment and the ''specially designed'' parts and components. New ECCN 9D515 applies to related software. New ECCN 9E515 applies to related technology.

This rule also makes a number of conforming changes to the EAR and existing ECCNs to implement the creation of the 9x515 ECCNs and the appropriate controls on the export of

those items. In several existing ECCNs, BIS added or revised the related controls to provide cross references to relevant paragraphs in the revised Category XV or the new 9x515 ECCNs. The sections below set out the issues identified in the public comments to the May 24 (spacecraft) rule and describe BIS responses to those comments and changes from the proposed text.

This rule will be implemented in two stages. On the first effective date, 45 days following the publication of this interim final rule, the controls on radiation-hardened microelectronic circuits in Category XV(d) will be deleted from the USML, and microelectronic circuits will be removed from USML Category XV(e). In addition, the ITAR controls on software and technical data directly related to such microelectronic circuits will be removed from USML XV(f). The EAR will simultaneously create ECCNs 9A515.d and .e to control radiation-hardened microelectronic circuits, and 9D515.d and .e and 9E515.d and .e, to control software and technology specially designed for or required for such radiation-hardened microelectronic circuits. All changes in the EAR outside the CCL needed to give effect to these new controls will also become effective 45 days following the publication of this interim final rule. The reason for the 45-day period is explained in response to public comment #38 below.

On the second effective date, 180 days following the publication of this final rule, the remainder of USML Category XV will be revised. The remaining changes in this rule will then become effective, including the revisions to several non-9x515 ECCNs, the rest of ECCN 9A515 to provide the controls in paragraphs .a, .b, .x and .y, adding ECCN 9B515, and the rest of ECCNs 9D515 and 9E515 to control software and technology specially designed for or required for the remaining items that become subject to the controls of the 9x515 ECCN simultaneously with the amendments to the rest of USML XV.

This interim final rule requests public comment on the changes to the EAR implemented in this rule and the continued applicability of USML Category XV of the ITAR to commercial and civil spacecraft. In particular, BIS seeks comments on the continued application of USML controls to civil and commercial communications satellites, civil and commercial remote sensing satellites, commercial space launch vehicles, human spaceflight and academic or scientific satellites and other spacecraft. BIS would like to study if controls can and should be revised to allow continued control of spacecraft with uniquely military or intelligence related capabilities on the USML, while allowing most, if not all, civil, commercial and scientific spacecraft to be shifted to the CCL. In addition, BIS seeks comments on any other aspect of this interim final rule and, in particular, whether the new controls described in this interim final rule are clear and, if not, how they could be revised to help ensure understanding of and compliance with the controls. DDTC will accept comments on paragraphs (a)(7) and (e)(11) of USML Category XV and ITAR § 124.15, as described in its interim final rule amending USML Category XV. Any revisions made by DDTC to the ITAR as a result of those comments may necessitate further revisions to the EAR, including to the new license documentation requirements for the export of satellites for launch, described in the new paragraph (y) of Supplement No. 2 to Part 748.

As required by Executive Order (EO) 13563, BIS intends to review this rule's impact on the licensing burden on exporters. Commerce's full plan is available at: *http://open.commerce.gov/news/2011/08/23/commerce-plan-analysis-existing-rules*. Data are routinely collected, including through the comments to be submitted, and new information and results from AES data on an ongoing basis. These results and data have been, and will continue to form, the basis for ongoing reviews of the rule and assessments of various aspects of the rule. As part of its plan for retrospective analysis under EO 13563, BIS intends to conduct periodic reviews of this rule and to modify, or repeal, aspects of this rule, as appropriate, and after public notice and comment. With regard to a number of aspects of this rule, assessments and refinements will be made on an ongoing basis. This is particularly the case with regard to possible modifications that will be considered based on public comments described above.

Response to Comments

BIS received thirty-eight public comments on the May 24 (spacecraft) rule before the close of the public comment period on July 8, 2013. The following is a summary of those comments, along with BIS's responses and descriptions of all changes from the May 24 (spacecraft) rule. The comments are organized by topic, with similar comments grouped together under the same heading. BIS is referring to the new ECCNs 9A515, 9B515, 9D515 and 9E515 collectively as 9x515. In the May 24 (spacecraft) rule, BIS referred to these proposed ECCNs as the ''500 series,'' and many comments refer to the ''500 series.''

General Comments

Comment #1: Twenty commenters expressed overall support for the May 24 (spacecraft) rule.

Response to Comment #1: BIS is pleased with the overwhelmingly positive response to the concept of moving commercial, scientific, weather and other less sensitive spacecraft and parts and components, and related software and technology, from the USML to the CCL in order to accomplish the national and economic security objectives of this part of the Export Control Reform effort.

Comment #2: One commenter requested that BIS review the effective date of the entire rule to determine if a six month delayed effective date is necessary to ensure proper implementation of the new regime by the U.S. licensing agencies and the effected industry.

Response to Comment #2: BIS has determined that, in general, a six-month period is required to allow exporters, reexporters and other parties sufficient time to study the new rules, to reclassify their products, and to update their compliance systems for transitioning ''spacecraft'' and related items. However, as discussed in detail below in the response to comments regarding radiation-hardened microelectronic circuits, controls on such items will transition from the USML to CCL on June 27, 2014. Therefore, this interim final rule contains two effective dates to accommodate the interests of the two different industries in a manner that does not compromise the national security, foreign policy, and other objectives of these controls.

Comment #3: Three commenters asked BIS to address how this final rule and the DDTC final rule for USML Category XV, published in tandem with this rule, will apply to items previously exported from the United States.

Response to Comment #3: This interim final rule applies to all items subject to the EAR on the date this rule becomes effective, regardless of their geographic location or when they were originally exported. The transition plan for items moving from the USML to the CCL as part of Export Control Reform was described in final rules published by BIS and DDTC on April 16, 2013; 78 FR 22660 (Revisions to the Export Administration Regulations: Initial Implementation of Export Control Reform) and 78 FR 22740 (Amendment to the International Traffic in Arms Regulations: Initial Implementation of Export Control Reform). These rules

contain a description of how items are controlled during the transition period. Any item subject to the EAR, including under these new regulations, must comply with the EAR for all subsequent exports, reexports and transfers (in-country) beginning on the date the change becomes effective. Any foreign parties who wish to reexport or retransfer items transitioned to a 9x515 or other ECCN should reclassify their items and comply with the EAR by the time the change becomes effective. If the reexport or retransfer is authorized under an active DDTC license, and the party wishes to engage in the transaction under the EAR, they should review the ITAR Initial Implementation of Export Control Reform at 78 FR 22747 or contact DDTC for further guidance.

Comment #4: One commenter claimed that most companies will not avoid future DDTC licensing fees because one or more products will remain on the USML.

Response to Comment #4: BIS agrees that some companies involved in the satellite industry will now have items subject to both the EAR and the ITAR. However, BIS believes that many companies will now only have items subject to the EAR and others' items will remain wholly subject to the ITAR. It is not the purpose of the Export Control Reform effort to remove all items from the control of the ITAR or EAR merely for the sake of changing controls. Rather, the purpose is to apply the right level of control to items of different sensitivities based on national security and foreign policy considerations. In general, items that warrant essentially worldwide controls with few exceptions and that otherwise warrant the controls of the ITAR for the reasons described in the preamble are in USML Category XV. Other items pertaining to satellites and other spacecraft that do not warrant control on the ITAR, but that nonetheless warrant or are required to be controlled, will become subject to the EAR. The structure of the EAR allows for more tailored controls. Less sensitive items can be controlled differently to different destinations under different circumstances.

Comment #5: Two commenters recommended a formal interagency review process for continued revision of USML Category XV and the transition of items to the 9x515 ECCNs.

Response to Comment #5: BIS agrees that a formal interagency review process for continued revision of USML Category XV and the transition of items to the 9x515 ECCNs is warranted. BIS and DDTC are publishing their respective rules as interim final rules because both acknowledge that several parts of the new regulations warrant additional and, indeed, continued review based on evolving technologies and commercial applications for what were once exclusively military or intelligence applications. In particular, BIS, DDTC, and the other relevant agencies will continue to study the interim final controls on remote sensing satellites to determine whether additional revisions are warranted. BIS and DDTC acknowledge that, as published, the ITAR will continue to control some satellites that have civil or commercial application. BIS and DDTC may or may not determine that additional revisions are warranted to these and the other controls in these interim final rules. They will publish a final rule taking into account public comments received, within six months of the effective date of this rule. The Departments of State, Commerce, and Defense will also announce separately their plans to re-create the Space Technology Working Group in order to establish a regular process for discussing with industry developments in space-related technologies and applications.

Comment #6: One commenter suggested that BIS revise 15 CFR 732.2(b)(1) to read: ''If your technology or software is publicly available and therefore outside the scope of the EAR, you may proceed with the export or reexport.'' The commenter argues that deletion of the phrase ''if you are not a U.S. person subject to General Prohibition Seven'' would be consistent with all other parts of the EAR, which treat publicly available information as outside the scope of the EAR and with the proposed revisions to 22 CFR 120.9 that ''defense service'' means furnishing of assistance using ''other than public domain information'' in the companion proposed DDTC rule.

Response to Comment #6: BIS does not accept this comment because it is outside the scope of the May 24 (spacecraft) rule and, in any event, the concern is unwarranted. By definition, technology or software that is publicly available is not subject to the EAR. See § 734.3(b)(3) of the EAR. Additionally, General Prohibition No. 7 imposes restrictions on all U.S. persons engaged in prohibited activities regardless of whether any technology involved is publicly available. Therefore, the removal of the reference to General Prohibition No. 7 would be misleading.

Comment #7: One commenter argued that only half of the countries listed in Country Group D:5 are labeled in 22 CFR 126.1 as subject to arms embargoes (10 U.N. embargoes plus three unilateral—Burma, China, Sudan). The commenter argues that, therefore, the restrictions on exports to the countries listed in Country Group D:5 in the EAR May 24 (spacecraft) rule are more restrictive than apparently intended, identifying the proposed revisions to §§ 734.4, 736.2(b)(3), 740.2(a)(12), 740.9(a), 740.10(a)(3)(viii) and (b)(3)(i)(F), 742.4(b)(1)(ii), and 742.6(b)(1).

Response to Comment #7: BIS does not accept the change suggested by the commenter. Country Group D:5 accurately reflects the countries currently identified in § 126.1 of the ITAR as being subject to a U.S. arms embargo. BIS will review all license applications for export to destinations in Country Group D:5 consistent with the applicable U.S. arms embargo policy for that destination set forth in § 126.1 of the ITAR. This means, for example, that if the State Department would deny a license to export a USML Category XV item to a country in the ITAR's § 126.1 then the Commerce Department would deny a license to export a 9A515 item to the same country, all other facts being the same. If the State Department would have approved the license, then the Commerce Department would approve the license, all other facts being the same.

De Minimis **Comments**

Comment #8: One commenter suggested revising the de minimis level for foreign-made commercial satellites or components containing 9A515 parts and components so that the foreign-made satellites could be reexported to the People's Republic of China (PRC) without a license as not subject to the EAR if they contained 25% or less U.S.-origin controlled content.

Response to Comment #8: BIS rejects the change suggested by the commenter. BIS has determined that the 2013 NDAA authorizing the removal of ''spacecraft'' and related items from the USML mandates that de minimis treatment is not available for any 9A515 items incorporated into ''spacecraft'' reexported to the PRC. Even if BIS had the discretion under the 2013 NDAA to allow 25% de minimis treatment for reexports to the PRC, BIS has determined that it is in the national security and foreign policy interests of the United States to maintain the 0% de minimis treatment for 9A515 items with respect to their export and reexport to the PRC, in whole or as part of foreign-made systems and other items.

Licensing Requirements and Licensing Policy Comments

Comment #9: One commenter suggested that BIS should ensure dual licensing is not required.

Response to Comment #9: As part of the review of USML Category XV and the public comments, BIS has worked diligently to avoid the potential for dual license requirements. However, in the event that a dual license requirement does arise, as part of the initial implementation of Export Control Reform, BIS and DDTC created new regulatory mechanisms to allow DDTC to license items subject to the EAR when used in or with defense articles on the USML. See § 734.3(e) of the EAR and § 120.5(b) of the ITAR.

Additionally, as described above, to address the potential for dual licensing, the revised USML Category XV and the 9x515 controls have been revised, through the addition of a note to USML Category XV and to 9A515 to allow the incorporation of USML items into spacecraft controlled in 9A515 without the resultant satellite's being subject to the ITAR.

Comment #10: One commenter requested that BIS clarify the on-orbit satellite registration transfer licensing requirements. For example, are license requirements based on purchaser's place of incorporation or ownership?

Response to Comment #10: BIS controls, within the definition of ''reexport'' the transfer of registration of a satellite or operational control over a satellite from a party resident in one country to a party resident in another country. For transfers to corporations, licensing will be based on the country of residency of the corporation, such as the country of incorporation or the country of its primary place of business. See § 772.1 of the EAR. BIS appreciates that this part of the definition, which has not been applied since satellites were transferred to the control of the State Department in 1999, will require refinement as new business patterns are presented. BIS encourages the public to submit comments while this rule is an interim final rule to help clarify the scope of the licensing and other obligations with such transactions.

Comment #11: One commenter asked BIS to clarify the phrase ''destined to a country'' in the context of license requirements for the export and reexport of ''spacecraft.'' Specifically, the requester asked if an export is only to the end-user country, or whether it would include the country of any party in temporary contact with the item while it is transiting one of these countries. The requester also asked, if a commercial communications satellite incorporating a U.S. component controlled under 9A515.x were to transit through, be handled by a national of (*e.g.,* in a transport container), or be launched from a country listed in Group D:5, would a de minimis rule of 0% be applicable?

Response to Comment #11: The EAR generally imposes licenses requirements based on the country of ultimate destination. With the exception of those countries identified in General Prohibition 8 (§ 736.2(b)(8) of the EAR), transiting a country en-route to the ultimate destination is not a licensable event. However, under the EAR, ''spacecraft'' have two potential countries of ultimate destination, the country where a space launch occurs and the country that will have control over the ''spacecraft'' after launch. The 0% de minimis threshold for D:5 countries applies to both the country of launch and the country of control.

Comment #12: One commenter stated that the last sentence of proposed § 742.6(b)(1) set out a policy of denial for 9x515 items to the PRC that is more restrictive than the case-by-case review for licenses for ''600 series'' items to the PRC and stated that treating the 9x515 items more restrictively than the ''600 series'' with respect to licensing policy to the PRC is inconsistent with the reasoning for treating 9x515 more liberally than ''600 series'' in other respects, such as License Exception Strategic Trade Authorization (STA) restrictions to other countries.

Response to Comment #12: BIS has determined that the 2013 NDAA authorizing the removal of ''spacecraft'' and related items from the USML mandates a policy of denial for export licenses of 9x515 items to the PRC. BIS has adopted such a policy of denial with regard to National Security controls in § 742.4(b)(1)(iii) and with regard to Regional Stability controls in § 742.6(b)(1). As described in § 742.4(b)(1)(ii) and § 742.6(b)(1) exports of both 9x515 and ''600 series'' items destined to countries in Country Group D:5, including the PRC, will be reviewed consistent with the review policies set forth in § 126.1 of the ITAR for U.S. arms embargos.

Comment #13: One commenter stated that it is inappropriate for BIS to adopt a policy of denial for exports to countries subject to arms embargoes (such as the PRC) of 9x515 items, which include many items that are commercial items with no military or intelligence applications.

Response to Comment #13: BIS has determined that the 2013 NDAA authorizing the removal of ''spacecraft'' and related items from the USML mandates a policy of denial for export licenses of 9x515 items to the PRC, North Korea, and any country that is a state sponsor of terrorism. Therefore, BIS has adopted a policy of denial for such items to these destinations. Further, BIS has determined that the 2013 NDAA mandates a presumption of denial for the export of 9x515 items to any country with respect to which the United States maintains a comprehensive arms embargo. To give effect to the United States arms embargoes, BIS will review all 9x515 licenses consistent with the United States arms embargo policies set forth in § 126.1 of the ITAR.

Comment #14: One commenter stated that § 750.7(i) of the EAR provides that a foreign entity is not bound by the prior STA Consignee Statement and Destination Control Statement associated with 9x515 and ''600 series'' items when retransferring or reexporting the items under the authority of de minimis after integration into a larger assembly or as a result of an additional applicable license exception, providing examples of License Exception Additional Permissive Reexports (LE APR at § 740.16) and License Exception Temporary Imports, Exports and Reexports (LE TMP at § 740.9).

Response to Comment #14: Section 750.7(i) of the EAR is a provision that allows an exporter who obtained an individually validated licenses from BIS to no longer be bound by the license conditions attached to that authorization in the event that the EAR has been amended to either authorize the transaction on the license under a license exception or to remove the license requirement from that transaction. It has no effect in the absence of a license.

Additionally, for an export under License Exception STA to be valid, all parties must ensure compliance with all the requirements of License Exception STA, including those attested to in the Prior Consignee Statement. Further, any foreign-origin item incorporating US origin 9x515 or ''600 series'' content will always be subject to the 0% de minimis threshold for shipments to countries in Country Group D:5 and will require a license for any such shipments.

Comment #15: One commenter asked BIS to create a streamlined export licensing process for programs (such as insurance) that typically include multiple parties, or are in multiple countries with multiple third-country nationals and dual nationals.

Response to Comment #15: BIS licensing processes and procedures are

described in Part 748 of the EAR, and applications are submitted through the SNAP–R application on the BIS Web site. One aspect of the reform effort that is outside the scope of this rule but relevant to the comment is that BIS has the authority to generally structure licenses in a flexible manner to accommodate both applicant's issues as well as the national security, foreign policy, and other reasons the items at issue warranted control. BIS thus encourages the commenter to contact the relevant licensing officer to discuss issues regarding the structuring of any particular license applications the commenter has in mind.

Comment #16: One commenter recommended that BIS create a CCL licensing practice or policy by which a satellite manufacturer or operator could obtain a single cradle-to-grave program license that would cover all manufacturer-client interactions, beginning with marketing and sales activities and including contract discussions, delivery negotiations, and on-orbit support. Even if a separate license for launch services would also be required, a single license covering all other activities would be invaluable.

Response to Comment #16: BIS agrees that having a single program under one license is a desirable outcome for compliance purposes. If an applicant can define the total activity that is subject to EAR—namely, the end users, end uses, destinations, and specific items at issue in the program at issue—BIS generally has the authority and capability to approve such transactions under a single license. With respect to marketing and sales activities that may occur without a specific license, the commenter should review License Exception Technology and Software Unrestricted (TSU) (§ 740.13).

License Exceptions

Comment #17: One commenter suggested deleting § 740.2(a)(7) to allow the use of license exceptions for the export of ''space-qualified'' items that had remained subject to the EAR.

Response to Comment #17: BIS accepts the change suggested by the commenter. Section 740.2(a)(7) was a limitation on the use of license exceptions for certain ''space-qualified'' items that remained subject to the EAR following the transfer of jurisdiction for satellites and related items to DDTC. With the revision to USML Category XV, BIS has determined that it is inconsistent with the purpose of the new controls and the availability of certain license exceptions, to continue to prohibit the use of license exceptions for ''space-qualified'' items controlled in other ECCNs. To determine which license exceptions are available for each ECCN, please review the specific ECCN and Part 740 of the EAR.

Comment #18: One commenter suggested revising proposed § 740.2(a)(17) to allow License Exception STA for technology described in proposed 9E515.b.

Response to Comment #18: BIS does not accept the change suggested by the commenter. BIS has revised 9E515 to clarify the technology controlled in paragraph .b. Section 740.2(a)(17) still prohibits the use of License Exception STA for the technology described in 9E515.b (and 9E515.d and .e with respect to radiation-hardened microelectronic circuits), but the universe of technology described has been revised so that it is more clear.

Comment #19: One commenter suggested allowing a license exception for ''deemed exports'' for amateur radio satellite design and construction to allow the free exchange of ideas, software, and other activities pertaining to amateur radio satellite design and construction with foreign nationals who are citizens of nations listed in the License Exception STA Country List.

Response to Comment #19: Security concerns resulting from the deemed export of technology in 9E515.b that led to the restriction on STA eligibility do not depend on the commercial nature of the transactions. Therefore, BIS does not accept the change suggested by the commenter.

Comment #20: One commenter noted that the ITAR contains a specific exemption for the export by U.S. institutions of higher learning of satellites for fundamental research purposes under § 123.16(b)(10), which has not been incorporated into the proposed EAR 500 series.

Response to Comment #20: BIS accepts the change suggested by the commenter and has created a new paragraph (e) in License Exception Aircraft and Vessels (AVS) to recreate the scope of ITAR § 123.16(b)(10) in the EAR in a manner consistent with the structure of the EAR and the less sensitive nature of the items that have moved from USML Category XV. The new § 740.15(e) allows the export of ''spacecraft'' and other commodities controlled in 9A515 by accredited institutions of higher learning in the United States to countries that are members of NATO (see § 120.31 of the ITAR), European Space Agency or the European Union, or are major non-NATO allies (see § 120.32 of the ITAR), and other countries that are not subject to embargoes, when fabricated only for the purpose of fundamental research. This rule also changes the name of License Exception AVS to ''Aircraft, Vessels, and Spacecraft.''

Comment #21: Two commenters stated that multiple provisions in the ITAR that are essential to university-based research have not been carried over to the EAR, including 22 CFR 123.16, 22 CFR 125.4(b)(7), and 22 CFR 125.4(b)(9).

Response to Comment #21: The commenters' assertions are not completely correct. Certain ITAR license exemptions identified by the commenter have preexisting parallel provisions in the EAR. For exemptions found in ITAR § 125.4(b)(7), the commenter should review License Exception TMP at § 740.9(b)(3). For those found in ITAR § 125.4(b)(9), the commenter should review License Exception TMP at § 740.9(a)(1) and License Exception GOV at § 740.11(b). As detailed above in the response to Comment #20, ITAR § 123.16(b)(10) has been replicated in the EAR in the new paragraph (e) of License Exception AVS (§ 740.15). Additionally, License Exception STA at § 740.20 does authorize many of the transactions authorized under ITAR § 123.16(b)(10) and the other exemptions. If, upon further review, the commenter identifies transactions that would be exempt from an individual licensing requirement in the ITAR that would not be for the same transaction involving items that have become subject to the EAR, all other facts being equal, then it should inform BIS of such information.

Comment #22: Two commenters stated that the utility of license exceptions in the EAR will be significantly limited for any items or technologies that are subject to control for MT reasons, including portions of the 9x515 ECCNs created by this rule. The commenters requested that BIS consider ways that the EAR can be adjusted to prevent items that are transferred to the CCL from creating more of a licensing burden than they were under the ITAR.

Response to Comment #22: BIS has determined that certain uses of MT-controlled items in ''spacecraft'' meet the criteria for the applicability of license exceptions and is revising § 740.2(a)(5)(i) to allow the use of license exceptions for certain MT-controlled items when exported as part of a ''spacecraft'' or in quantities appropriate for replacement parts. BIS is also adding 7A105, for certain GPS systems that were previously ITAR controlled, and 9A515, for certain spacecraft, related items, radiation hardened microelectronic circuits and parts, components, accessories and

attachments that were previously ITAR controlled, to the list of ECCNs that are eligible for the use of certain license exceptions for MT items. BIS is prohibited by statute from further amending licensing obligations for items that are MT controlled.

Comment #23: Two commenters stated that License Exception STA should apply to all of 9D515 and 9E515.

Response to Comment #23: BIS does not accept the change suggested by the commenter. Certain software, listed in 9D515.b (to be effective on November 10, 2014), .d, and .e, is excluded from STA eligibility based on the national security concerns related to the export of the referenced software. Similarly, the technology in 9E515.b (to be effective on November 10, 2014), .d, and .e is excluded from STA eligibility based on the national security concerns related to that technology. The commenter should nonetheless review the revisions to 9D515 and 9E515 that clarify the scope of the STA exclusions from the ECCNs.

Comment #24: One commenter suggested that BIS allow small- and medium-sized companies the ability to quickly support new startups and ventures with companies in countries authorized as destinations in License Exception STA in paragraphs (c)(1) and (2).

Response to Comment #24: License Exception STA is not authorized to Country Group A:6 (the countries authorized in paragraph (c)(2) of License Exception STA) for any 9x515 items. However, License Exception STA is available for exports to countries in Country Group A:5 (the countries authorized in paragraph (c)(1) of License Exception STA) for most of the items controlled in 9A515, 9D515 and 9E515, and all the items controlled in 9B515.

Certain specific ''spacecraft,'' controlled in 9A515.a, that provide space-based logistics, assembly or servicing to another spacecraft are excluded from automatic eligibility for License Exception STA. To use License Exception STA for these ''spacecraft,'' the exporter must submit a request to BIS, in accordance with § 740.20(g) (License Exception STA eligibility requests for certain 9x515 and ''600 series'' end items), for a determination by BIS that the item is eligible for License Exception STA. This rule revises § 740.20(g) to add the specific 9A515.a ''spacecraft'' to the list of items authorized for determination under that paragraph and revises the heading to include a reference to 9x515.

Comment #25: One commenter noted that the ITAR includes a license exemption in § 125.4(b)(7), allowing the return of technical data to the original source of import, and requested that it be brought to the EAR.

Response to Comment #25: The exports authorized by § 125.4(b)(7) of the ITAR will generally be authorized by License Exception TMP § 740.9(b)(3) for items subject to the EAR. It is comparable in that it allows the return of items to the country of origin, except for Cuba, if the original items had not been enhanced. This license exception does not allow the dissemination of technology that has been revised, or in any way improved, while in the United States. Such actions create U.S.-origin technology, which would be subject to the EAR and may require a license for export. If the commenter can identify a transaction where License Exception TMP is more restrictive than ITAR § 125.4(b)(7), then it should let BIS know.

General Comments Related to ECCN 9A515

Comment #26: Two commenters requested the insertion of a note to 9x515 that would make clear that non-U.S. origin items described in the ECCNs that are transferred to the United States would not be subject to the EAR, and therefore would not require a license in order to be re-transferred outside the United States.

Response to Comment #26: BIS does not accept the changed suggested by the commenter. All items in the United States, not otherwise excluded from BIS jurisdiction, are subject to the EAR, whether U.S.-origin or foreign origin. However, License Exception TMP (§ 740.9(b)(3)) does allow the return of items to their country of origin if unaltered while in the U.S. In addition, the export from the United States of a wholly foreign-made item does not mean that subsequent reexports of that item are subject to the EAR. See 15 CFR 734.3(a).

Comment #27: One commenter noted that 9A515 was drafted using catch-all phrases similar to the unrevised USML Category XV and suggested that BIS redraft 9A515 so that it used only positive controls, similar to the revised USML Category XV.

Response to Comment #27: BIS does not accept the change suggested by the commenter. As with the ''600 series'' ECCNs created to accomplish the rewrites of the other USML Categories, the 9x515 ECCNs necessarily include catch-all provisions to ensure continuity of control over all items removed from the USML. This is necessary because USML Category XV used catch-all phrases for its controls. Thus, the reform effort will result in more positive controls on the USML, while maintaining catch-all controls on the CCL. As described in previous **Federal Register** notices, BIS believes the negative aspects of catch-all controls have been ameliorated through the creation of a relatively objective definition of ''specially designed.''

Comment #28: One commenter asked if the new 9x515 ECCNs include only items that are transferred from the USML to the CCL, or if they also include items previously covered by other ECCNs (such as for example 9A004.b.) or items designated EAR99.

Response to Comment #28: BIS's goal in drafting the 9x515 ECCNs is that they would control no more items than that were either (i) formerly controlled in USML XV that are no longer described in the revised USML XV or (ii) within the scope of the former 9A004.b, and that they would not control items (i) within the scope of existing ''space-qualified'' ECCNs or (ii) that are star trackers in 7A004 and 7A104. BIS believes that its decision to change the catch-all control parameter in 9A515.x from ''space-qualified'' to ''specially designed'' removes the uncertainty that EAR99 items would move up to 9A515.x through successful testing for use in space. BIS is unaware of any item that was properly determined to be subject to the EAR and as an EAR99 item that would be within the scope of 9A515.x or any other 9x515 ECCN paragraph. If the commenter believes otherwise, then he should notify BIS of the issue either during the interim period of this final rule or through the commodity classification process described in EAR § 748.3.

Comment #29: Two commenters requested that BIS separate out purely commercial items and subject them to lesser controls.

Response to Comment #29: Controls are based on the national security and foreign policy concerns associated with a particular item and are imposed at the levels that are warranted. Merely because something is commercial does not mean control is not warranted. Even purely commercial satellites provide a significant functionality that warrants significant control. Specifically, any satellite can, by virtue of its position in orbit above the earth, provide a platform with a global reach and the potential to carry alternative payloads that may have direct national security implications. Additionally, the technology related to the workings of commercial satellites provide the majority of the technology necessary to allow other countries to establish a space presence of significant concern as described in the report the Departments of Defense and State

provided to Congress in 2012 regarding controls on spacecraft. *See* Departments of Defense and State ''Final Report,'' required by section 1248 of the National Defense Authorization Act of Fiscal Year 2010, available at *http://www.defense.gov/home/features/2011/0111_nsss/docs/1248_Report_Space_Export_Control.pdf* (the ''1248 Report'').

Comment #30: One commenter requested that BIS change the reasons for control on 9A515 from NS1 and RS1 to NS2 and RS2.

Response to Comment #30: BIS accepts the change suggested by the commenter for the new microelectronic circuit control described in 9A515.e. ECCN 9A515.e has an RS2 reason for control because it is for lower level radiation tolerant microelectronic circuits that do not raise the same national security concerns and do not require the same global license requirement as other space related items. The remainder of 9A515, except the new .y paragraph, has NS1 and RS1 reasons for control.

Comments Related to Spacecraft in 9A515.a

Comment #31: Two commenters suggested that ''spacecraft'' controlled in 9A515.a should remain ''subject to the EAR'' even if they incorporate a defense article listed on the USML.

Response to Comment #31: BIS accepts the change suggested by the commenter and has added a heading note at the top of the Items paragraph of 9A515 to state that ''spacecraft'' and other items described in 9A515 remain subject to the EAR even if defense articles described on the USML are incorporated into the items, unless they take on the characteristics described in Category XV(a) of the USML. The note also states that in all other cases, defense articles described on the USML are subject to the ITAR. DDTC has added a corresponding note to its revised USML XV. This note in 9A515 provides readers with a summary of the note on the ITAR excluding these integral and incorporated defense articles from the USML. As this represents a departure from the standard ITAR ''see-through'' rule, it is appropriate to call it to the reader's attention.

The 1999 NDAA mandates certain special export controls on the export of satellites and the performance of certain activities associated with the launch of a U.S.-origin satellite in a foreign country. The 2013 NDAA requires that the President provide for end-use monitoring of satellites and related items transferred from the USML to the CCL. As a result of the changes to Category XV in response to public comment, certain end item satellites may not be subject to ITAR licensing for the export of those satellites, including when exported for launch. Therefore, DDTC has revised § 124.15 of the ITAR, which implements the 1999 NDAA mandate, to clarify which special export controls apply only to satellites and related items subject to the ITAR and which controls apply to all satellites and related items regardless of jurisdiction.

Mirroring these revisions to § 124.15 of the ITAR, BIS created new export license application requirements, consistent with the 1999 NDAA mandate and implementing the 2013 NDAA mandate, for satellites subject to the EAR. In Supplement No. 2 to Part 748, BIS added a paragraph (y) to describe the requirement, from the 1999 NDAA, for a Department of Defense approved technology control plan and a National Security Agency approved encryption control plan, or evidence of ongoing discussions to obtain approved plans, and evidence of arrangements for the Department of Defense to provide monitoring, to be provided to BIS with the application for an export license for a satellite.

The 1999 NDAA only mandates special export controls for licenses to export a satellite to a country that is not a member of the North Atlantic Treaty Organization (NATO) or a major non-NATO ally of the United States. However, in furtherance of the national security and foreign policy interests of the United States, BIS has the discretion to require evidence of compliance with special export control requirements in connection with licenses to export satellites or spacecraft subject to the EAR to a country that is a member of NATO or is a major non-NATO ally. Accordingly, paragraph (y)(2) of Supplement No. 2 to Part 748 states that a license application to export a satellite controlled by ECCN 9A515.a to such countries must include (i) a technology transfer control plan approved by the Department of Defense and an encryption technology control plan approved by the National Security Agency, or documentation from the Department of Defense that such plans are not required; and (ii) evidence of arrangements with the Department of Defense for monitoring of the launch or documentation from the Department of Defense that such monitoring is not required.

Regardless of a satellite's or spacecraft's jurisdictional status, ownership, or origin, the ITAR controls as a ''defense service'' the furnishing of assistance (including training) by a U.S. person to a foreign person directly related to (a) the integration of a satellite or spacecraft to a launch vehicle or (b) launch failure analyses. See 22 CFR 121.1, USML XV(f).

Comment #32: Two commenters suggested that BIS control sub-orbital spacecraft that are ''reusable launch vehicles'' and designed to carry humans on-board and any ''specially designed'' carrier aircraft in 9A515. The commenters also suggested adopting definitions for ''suborbital rockets'' and ''reusable launch vehicles'' from the Federal Aviation Administration, Commercial Space Transportation regulations at 14 CFR 401.5.

Response to Comment #32: BIS is controlling in 9A515.a all ''spacecraft'' no longer listed on USML XV(a). The revised USML Category XV(a) does not list ''spacecraft'' ''specially designed'' for human habitation that do not incorporate propulsion and navigation systems. Therefore, these items are controlled in 9A515.a. All launch platforms and launch vehicles remain subject to the ITAR.

BIS recognizes that commercial spaceflight and specifically, sub-orbital commercial space flight, is a significant emerging industry and that these activities are being regulated by the Federal Aviation Administration as commercial activities. However, the technology that is at the heart of the ability to put a commercial vehicle into space and return to earth is often the same technology that would allow the delivery of weapons of mass destruction and other activities that present significant national security concerns. At this time, BIS is unable to draw a line between the commercial applications of these capacities and the inherently military potential of launch and reentry that would warrant their controls on the CCL. Therefore, these systems will remain on the USML, regardless of their potential commercial applications. BIS recognizes that the continued control of spacecraft with commercial applications on the USML is a significant issue for industry and that more work is required to further refine the controls in this area. The U.S. Government has committed to continue to review the issue and, to the extent further revisions to the controls in this rule are warranted, BIS will make them in coordination with the Department of State.

Comment #33: One commenter stated that Servicing Mission Extension Vehicles do not appear on the USML but are also not listed specifically in the Note to 9A515.a.

Response to Comment #33: Servicing Mission Extension Vehicles, to the extent that they incorporate a

propulsion and guidance system, are listed on the revised USML Category XV at (a)(4) and thus are not ''subject to the EAR.'' Servicing Mission Extension Vehicles, and other ''spacecraft'' that provide space-based logistics, assembly or servicing of any spacecraft (e.g., refueling), which do not have integrated propulsion, beyond attitude control, are ''subject to the EAR'' and controlled in 9A515, but are not immediately eligible for License Exception STA.

Comment #34: Two commenters suggested adding the phrase ''satellites not otherwise enumerated in USML Category XV'' to the note to 9A515.a, to make clear that any satellites not specifically listed under USML Category XV are covered under 9A515.a.

Response to Comment #34: The suggested phrase is included in the control text of 9A515.a. Thus, BIS has determined that it is unnecessary to add it to the note as well.

Comment #35: One commenter suggested adding the words ''or controlled by 9A004'' in 9A515.a after the phrase ''not enumerated in USML Category XV'' to clarify that the International Space Station (ISS) and other items controlled in 9A004 are not controlled in 9A515.

Response to Comment #35: BIS accepts the change suggested by the commenter in principle and has added the words ''or described in 9A004'' to the description of items controlled in 9A515.a. This excludes all items described in 9A004 from 9A515.a. As the ISS is not controlled in 9A515.a, the parts, components, accessories and attachments ''specially designed'' for the ISS are not controlled in 9A515.x.

Comment #36: One commenter suggested revising the MT paragraph in 9A515 to read: ''MT applies to 9A515.d when also described in 3A101.a.''

Response to Comment #36: BIS does not adopt this suggestion because quoting the Missile Technology Control Regime (MTCR) text is more precise.

Comment #37: One commenter suggested defining the term ''usable'' in the MT paragraphs for 3A001.a.1.a and 9A515 d. to reference a specific characteristic of to refer to a standard.

Response to Comment #37: BIS acknowledges that the phrase ''when usable in missiles for protecting missiles against nuclear effects (e.g. Electromagnetic Pulse (EMP), X-rays, combined blast and thermal effects)'' can be difficult to apply in certain circumstances. However, this is the multilaterally agreed MTCR text, and BIS has determined that by providing a reference to a specific standard, the United States would be deviating from its regime commitments. If an exporter has particular issues warranting clarification, then it should submit an advisory opinion request under § 748.3(c).

Comments Related to 9A515.d and 9A515.e

Comment #38: Six commenters requested that items described in USML Category XV(d) be transitioned to 9A515 on the date of publication of this final rule.

Response to Comment #38: BIS agrees on the need to accelerate implementation of the transition of the radiation-hardened microelectronic circuits from the USML to the CCL. Microelectronic circuit development has advanced to a stage where manufacturers are concerned that the next generation of purely commercial microelectronic circuits may meet or exceed the parameters listed in USML Category XV(d). It is necessary to quickly transition these items to the CCL to avoid requiring that these commercial manufacturers register with DDTC and obtain ITAR licenses for the development of these items. In the final rule revising Category XV, DDTC has provided that the effective date for the deletion of USML Category XV(d), microelectronic circuits controlled by XV(e), and directly related technical data and software controlled by XV(f), will be 45 days following the publication of the final rule, the minimum period permitted for a major regulatory action. Therefore, BIS has also provided that this rule will transition those items to 9A515.d, 9A515.e, 9D515.d, 9D515.e, 9E515.d, and 9E515.e, respectively, 45 days following the publication of the final rule, on June 27, 2014.

Comment #39: One commenter asked BIS to clarify Notes 2 and 3 to 9A515.d to state which microelectronic circuits are intended to be controlled under 3A001 as opposed to 9A515.x.

Response to Comment #39: BIS has revised the controls on microelectronic circuits that fall below the threshold described in 9A515.d. BIS has created a new paragraph .e that controls certain microelectronic circuits that are ''specially designed'' for defense articles controlled by USML Category XV or items controlled by 9A515 and meet two technical parameters (1) a total dose $\geq 1 \times 10^5$ Rads (Si) (1×10^3 Gy(Si)) and $<5 \times 10^5$ Rads (Si) (5×10^3 Gy(Si)) and (2) a single event effect (SEE) (i.e., single event latchup (SEL), single event burnout (SEB), or single event gate rupture (SEGR)) immunity to a linear energy transfer (LET) ≥ 80 MeV-cm^2/mg. BIS has also excluded all microelectronic circuits from 9A515.x. Therefore, microelectronic circuits that meet the control criteria of either 9A515.d or 9A515.e are the only microelectronic circuits controlled in 9A515. All other microelectronic circuits subject to the EAR will be controlled based on their technical parameters in the appropriate ECCN or designated as EAR99 items.

Comment #40: One commenter asked that BIS insert into Note 1 of 9A515.d a statement adopting the longstanding definition of ''ASIC'' put forward by the JEDEC Solid State Technology Association—namely that an ASIC is ''an integrated circuit developed and produced for a specific application or functions and for a single customer.''

Response to Comment #40: BIS accepts the commenter's suggestion to provide a definition of ASIC or application specific integrated circuits. In Note 1 to 9A515.d and .e, BIS has included the phrase ''integrated circuits developed and produced for a specific application or function'' following the term ASIC to provide definition to the term. BIS does not accept the commenter's suggestion that the term ASIC be limited to items produced for a single customer. Such language could lead to unintended drops in controls. Additionally, this Note 1 to 9A515.d and the new .e is a reference to the USML control in USML Category XI(c). Items are controlled on the USML if described therein, regardless of whether they are also within the scope of a particular ECCN. This note has no substantive effect on items that are controlled as ASICs on the USML. It is merely a cross reference inserted for the convenience of the exporter.

Comment #41: One commenter noted that the fourth and fifth technical parameters contained within 9A515.d differ from the fourth and fifth technical parameters contained within the prior USML Category XV(d). The commenter asks why those changes have been made, and whether there is any need for them. The commenter suggests that the five technical parameters contained within USML Category XV(d) should be replicated exactly in 9A515.d.

Response to Comment #41: The comment is correct that the words of the fourth and fifth technical parameters contained within 9A515.d are slightly different from those in prior USML Category XV(d). These controls have been updated and clarified, so BIS does not accept the request to revert to the previous controls. Anything that did not meet previous USML Category XV(d) controls will not be captured by the new 9A515.d parameters.

Comment #42: One commenter noted that some items currently listed under

other CCL ECCNs (e.g., 3A001) contain microelectronic circuits that have all of the specifications listed under 9A515.d. The commenter asks whether the microelectronic circuits meeting the described specifications that are currently controlled under other ECCNs will be moved into 9A515.d.

Response to Comment #42: Microelectronic circuits are controlled in 9A515.d when they meet or exceed the five technical parameters described in the subparagraph and are ''specially designed'' for a defense article, a 600 series item, or an item in 9A515. The criteria in 3A001.a are also controlled in 9A515.d. However, 9A515.d describes a higher level of technical parameters than 3A001.a. Therefore, if a microelectronic circuit meets or exceeds the same three criteria in 9A515.d, but does not meet or exceed the remaining two 9A515.d criteria, then 3A001.a will apply. However, all items controlled in 9A515.d were previously subject to the ITAR pursuant to USML Category XV(d). Therefore, nothing described in 9A515.d could have been properly classified as 3A001.a. Moving forward, under the Order of Review (see § 774, Supplement No. 4), exporters must review the 9x515 ECCNs and ''600 series'' prior to reviewing other ECCNs. Therefore, if an item is described in 9A515.d, or the new 9A515.e, it will be controlled in those paragraphs, even if it also meets the technical parameters in 3A001 or any other ECCN.

Comments Related to 9A515.x

Comment #43: One commenter requested that BIS not apply NS1 and RS1 reasons for control to 9A515.x.

Response to Comment #43: BIS does not accept the change suggested by the commenter. The items controlled in 9A515.x are ''specially designed'' for spacecraft and space applications, and thus raise national security and foreign policy concerns. Therefore, the U.S. Government will require visibility into the export of these items. Applying NS1 and RS1 reasons for control requires world-wide licensing, other than exports to Canada. Allowing the use of License Exception STA for most items to our 36 closest allies and partners provides significantly more record of the transactions than allowing No License Required (NLR) shipments.

Comment #44: Two commenters stated that the 9A515.x control parameter should be ''specially designed.''

Response to Comment #44: BIS accepts the change suggested by the commenter. BIS agrees that the use of the control parameter ''space-qualified'' in 9A515.x was potentially confusing and has changed it to ''specially designed.'' The structure of 9A515.x will now track the structure of all ''600 series'' entries, in that, with small exceptions, it will be a catch-all control for all parts, components, accessories, and attachments ''specially designed'' for items in 9A515 or USML Category XV and not themselves controlled in USML Category XV. The exceptions pertain to (i) microelectronic circuits, (ii) star trackers in 7A004 and 7A104, and (iii) already existing multilateral controls on ''space-qualified'' items controlled elsewhere in the CCL.

Comment #45: One commenter asked whether 9A515.x will capture all spacecraft ''parts,'' ''components,'' ''accessories,'' and ''attachments'' not controlled under paragraph (e) of USML Category XV or listed under other specific ECCNs above, or will other ECCNs that currently control spacecraft components (e.g., 7A004 or 7A104) continue to do so. Specifically, the commenter requested clarification on which ECCN will control the solar concentrators, power conditioners and/or controllers, bearing and power transfer assemblies, deployment hardware/systems for solar arrays, ''space-qualified'' star trackers and ''space-qualified'' gyro-astro compasses currently controlled under Category XV(e). The commenter also stated that delineating which items are controlled by each of these ECCNs would help satellite component manufacturers understand which controls apply to their products.

Response to Comment #45: BIS has clarified 9A515.x in this final rule so that the star trackers (except the star tracker specified in USML Category XV(e)) and gyro-astro compasses controlled in 7A004 and 7A104 are not controlled in 9A515.x. All other ''parts,'' ''components,'' ''accessories,'' or ''attachments'' that are specially designed for items in USML Category XV or 9A515 are controlled in 9A515.x unless listed on the ITAR, identified in another paragraph of 9A515, are a microelectronic circuit, or are controlled in one of the ''space-qualified'' ECCNs that are specifically excluded. BIS is unaware of any items that will be controlled by 9A515.x that were not previously controlled under USML Category XV(e). If the commenter is aware of such items, then it should provide a comment to BIS during the interim period of this rule or submit a classification request pursuant to EAR section 748.3.

Comment #46: One commenter asked BIS to confirm that space-related products that are currently designated with a specific ECCN or are designated EAR99, will not be moved to either the USML, 9x515, or a ''600 series'' ECCN. The comment requested that BIS include a specific statement to that effect, or if not true, include a grandfathering clause for such items already in inventory.

Response to Comment #46: Other than with respect to 9A004.b items that BIS is moving to 9A515, BIS is unaware of any items that will be controlled by 9A515 that were not previously controlled under USML Category XV. If the commenter is aware of such items, then it should provide a comment to BIS during the interim period of this rule or submit a classification request pursuant to EAR § 748.3.

Comment #47: Six commenters asked if, when a commercial-off-the-shelf (COTS) or other EAR99 item is successfully tested for operation in space, it becomes space-qualified with repercussions for the manufacturer, even though the original part may have been EAR99 and has not been modified.

Response to Comment #47: BIS believes that the other ECCNs that will continue to use ''space-qualified'' as the control parameter do not raise the same concerns for controlling otherwise EAR99 items on the basis of testing, as they are not catch-all controls. Additionally, this comment assumes that the qualification through testing of a single item will cause items other than the one tested to become space-qualified. As the note indicates, qualification through successful testing only applies to the actual unit tested.

Comment #48: One commenter stated that BIS should exclude building block electronic components that would qualify for exclusion from specially designed, even if they are individually tested or create a new ECCN for Space-Qualified Basic Building Block Electrical/Electronic Components with AT only controls.

Response to Comment #48: As noted above, BIS has revised 9A515.x in this final rule to use ''specially designed'' instead of ''space-qualified'' as the control parameter. To the extent that the item at issue is a microelectronic circuit, it will only be controlled in 9A515 if it meets the .d or .e control parameters. All other electronic components will be controlled by .x, regardless of significance, if ''specially designed'' for a 9A515 or USML Category XV item and not listed on the USML or one of the other ECCNs described in 9A515.x. The commenter should also review the procedures in EAR section 748.3(e) that allows one to petition BIS for removal of an item otherwise within the scope of 9A515.x and the re-designation of the item as a 9A515.y item.

Comment #49: One commenter suggested deleting 6A002.e from the list of ''space-qualified'' ECCN carved out of 9A515.x.

Response to Comment #49: BIS accepts the change suggested by the commenter. This paragraph was previously removed from the EAR.

Comments Related to the Application of ''Space-Qualified''

Comment #50: One commenter stated that the note to the proposed EAR definition of ''space-qualified'' providing that the terms 'designed' and 'manufactured' in this definition are synonymous with ''specially designed'' is confusing. The purpose may have been to be sure that all ''catch-all'' components being removed from USML Category XV are covered by 9A515, but 9A515.x use of ''space-qualified,'' rather than ''specially designed,'' seems to make the Note unnecessary for this purpose.

Response to Comment #50: Although the comments related to the use of ''space-qualified'' are no longer relevant to 9A515.x because the paragraph will not use ''space-qualified,'' they are nonetheless relevant to other uses of ''space-qualified'' in the EAR.

The note to the definition of ''space-qualified'' that states that the terms 'designed' and 'manufactured' are synonymous with the definition of ''specially designed'' allows exporters to apply the newly defined term ''specially designed'' rather than force exporters to apply two new undefined terms 'designed' and 'manufactured.' This note prevents exporters from having to determine for themselves what, if any, difference exists between 'designed' and 'manufactured' and the term ''specially designed.''

Comment #51: One commenter suggested to change ''or'' to ''and'' in the ''space-qualified'' definition. The modified definition would read: ''. . . an article is ''space-qualified'' if it is designed, manufactured, and qualified through successful testing, for operation at altitudes greater than . . .'' Another commenter suggested revising the second note to state that ''specially designed'' is synonymous with the phrase ''designed, manufactured, or qualified through successful testing,'' which would have the same effect.

Response to Comment #51: BIS does not accept these suggested changes for two reasons. First, this definition was agreed to as part of the 2012 amendments to the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies (Wassenaar Arrangement), and the internationally agreed on language is incorporated into the EAR. Second, such a change would significantly reduce the scope of the space-qualified definition and result in less sensitive items not being controlled. An item may become space-qualified in two ways, if either (1) intentional steps were taken in the design and manufacture of the item to make it suitable for use in space, or (2) due to inconsistencies in the manufacturing process that cause variations in quality that result in only a subset of the production run to be suitable for use in space, individual items are qualified through testing.

Comment #52: Two commenters stated that the use of ''*or*'' in ''*Designed, manufactured, or qualified through successful testing*'' seems to contradict the second note, which intends to exclude parts and components which have not been ''specially designed.'' Conversely, the first note excludes items that are not individually tested. As radiation testing is destructive, industry practice is to test radiation tolerance on lot samples and not on the actual parts to be used on the spacecraft. The note would result in excluding from being ''space-qualified,'' parts determined to be radiation tolerant as a result of being of the same lot as samples successfully tested as radiation tolerant.

Response to Comment #52: BIS does not accept the changes suggested by the commenter. The existing definition in the EAR is identical to the definition that was adopted by the Wassenaar Arrangement. However, Commerce will keep in mind these comments when considering future modifications, if necessary, to the multilateral regime definition.

Comment #53: Four commenters asked BIS to establish parameters for testing that qualifies an item as ''space-qualified.''

Response to Comment #53: The concern raised by the commenters is largely resolved by the change in .x to apply ''specially designed'' instead of ''space-qualified'' as the control parameter and creation of new 9A515.d and .e. Clarification of the use of the new ''space-qualified'' definition in the existing CCL entries should be resolved multilaterally as part of the WA process.

Comment #54: One commenter suggested that ''space-qualified'' should incorporate both the catch and release of ''specially designed.''

Response to Comment #54: The designed or manufactured prong of ''space-qualified'' is synonymous with ''specially designed'' per the second note to the definition of ''space-qualified,'' and thus includes both the catch and release provisions of the definition of ''specially designed.'' The qualified through successful testing prong of ''space-qualified'' operates independently of the designed or manufactured prong, and does not incorporate the ''specially designed'' release provisions.

Comment #55: One commenter asked BIS to confirm that the ''space-qualified'' criterion applies only to items that have been designed, manufactured or qualified through successful testing performed at U.S. premises or using U.S. technologies.

Response to Comment #55: For such entries, the ''testing'' element is not limited to testing done in the United States or using U.S.-origin technology. Other clarifications or revisions to ''space-qualified'' will need to be part of the multilateral regime discussions.

Comment #56: One commenter states that items should only be ''space-qualified'' if certified by the manufacturer. The commenter suggested that BIS add the following note ''For purposes of this definition, ''qualified'' must be evidenced by an explicit rating or certification to operate at altitudes greater than 100 km above the Earth. Thus, any device certified by the manufacturer to be operative at altitudes greater than 100 km is ''qualified through successful testing,'' and any device not certified by the manufacturer to be operative at altitudes greater than 100 km is not ''qualified through successful testing,'' regardless of any testing performed by any party.

Response to Comment #56: BIS does not accept the change suggested by the commenter. The purpose of qualification through testing in the ''space qualified'' definition is to control those items identified through testing to meet the requirements necessary to perform in space. It is not relevant what entity conducts the testing.

Comment #57: One commenter asked whether the note to the ''space-qualified'' definition means that each component must be tested separately to be ''space-qualified.'' For example, if only one of four identical components is successfully tested and thus qualified, would the four identical components be then all ''space-qualified'' or will only the one successfully tested be ''space-qualified''?

Response to Comment #57: For items qualified through testing, only items actually tested are ''space-qualified.'' If an item is ''space-qualified'' as a result of design or manufacture, testing is not relevant.

Comment #58: Two commenters asked whether the definition of ''space-qualified'' allowed the ''exclusion'' for prior determination through a

commodity jurisdiction (CJ) determination or interagency-cleared commodity classification (CCATS) pursuant to § 748.3(e) in paragraph (b)(1) of the ''specially designed'' definition. If not, the commenters stated that a part that has been previously determined to be, for instance, EAR99 through a Commodity Jurisdiction could see its classification become 9A915.x by virtue of meeting the criteria of ''space-qualified,'' i.e. qualified through successful testing, for operations at altitudes greater than 100km above the surface of the Earth, even though the design, performances, and testing flow of this part are the same that had been previously reviewed by the U.S. Government during the CJ or CCATS process.

Response to Comment #58: As noted in Response to Comment #45, BIS has revised 9A515.x in this final rule to remove the ''space-qualified'' control parameter, replacing it with ''specially designed.''

Comment #59: Three commenters stated that testing should only apply to the item tested.

Response to Comment #59: As stated in the first note to the ''space-qualified'' definition, only the item tested is qualified through testing. However, if an item is ''space-qualified'' as a result of design or manufacture, testing is not relevant.

Comment #60: Items are identified as ''space-qualified'' as a marker for high reliability and the level of control should not be increased to 9A515.x based on that criteria.

Response to Comment #60: As noted in Response to Comment #45, BIS has revised 9A515.x to remove the ''space-qualified'' control parameter, replacing it with ''specially designed.''

Comment #61: One comment asked why the proposed rules only refer to categories 3, 6, and 9 in the ''space-qualified'' definition and what that means regarding the other categories of EAR.

Response to Comment #61: The term ''space-qualified'' only appears in ECCNs in categories 3, 6 and 9 of the Commerce Control List and the convention for Wassenaar Arrangement defined terms is to identify the categories in which they are used, if not common throughout the control list. As ''space-qualified'' is no longer the control parameter in 9A515.x, category 9 is removed from this list.

Comment #62: One commenter requested that BIS clarify how ''required'' applies to items with only a ''space qualified'' control parameter, particularly when qualified through testing.

Response to Comment #62: BIS has revised 9A515.x in this final rule to remove the ''space-qualified'' control parameter, replacing it with ''specially designed.'' Therefore, it is no longer necessary to determine how 9E515 controls apply to items that are controlled as ''space-qualified'' by virtue of testing.

Comments Related to 9A515.y

Comment #63: Two commenters suggested that BIS create a .y paragraph for items that only warrant AT control, including certain ''space-qualified'' basic building block electronic components.

Response to Comment #63: BIS accepts the suggestion to create a .y paragraph with an AT reason for control and prohibition on the export to China. Unlike the .y paragraphs in many of the ''600 series'' ECCNs, 9A515.y will not initially be a list of items. Rather, the control parameter will be ''[i]tems described in 9A515.x that have been identified in an interagency-cleared commodity classification (CCATS) pursuant to § 748.3(e).'' The reason for control on the .y paragraph, as with the other .y paragraphs in the ''600 series'' ECCNs, is Anti-Terrorism Column 1 (AT). Additionally, as with the other .y paragraphs, export to China is prohibited and § 744.21(a)(2) is amended to add a prohibition of the export of all items described in 9A515.y to China.

At the time of publication, no items are designated within the .y control. BIS will accept requests to designate 9A515.x items under § 784.3(e) as .y upon publication of this rule, but will not begin populating any .y controls until on or after the effective date of this rule.

Comments Related to 9B515

Comment #64: One commenter requested that BIS clarify the classification of encryption simulators used to test COMSEC encryptors when installed on a foreign manufactured satellite.

Response to Comment #64: Encryptors that are ''specially designed'' for spacecraft will be controlled in 9A515.x to the extent they are commodities or in 9D515 to the extent they are software. The simulators to test those items will not be controlled in a 9x515 ECCN. BIS has revised 9B515.a and .b so that the controls on test, inspection and production equipment controlled in 9B515.a and the equipment, cells and stands for testing, analysis and fault isolation in 9B515.b only apply to items ''specially designed'' for items in 9A515.a or USML Category XV paragraphs (a) or (e). Therefore, simulators for testing a part, component, accessory or attachment controlled in 9A515.x are not controlled in 9B515.

Comment #65: One commenter has stated that it is unclear why the (10^{-4}) Torr technical threshold has been included in 9B515.c. In general, the development of more advanced satellite designs has led to increases in design life, a feature that requires more demanding testing standards and more advanced testing equipment to validate these designs. It is, therefore, plausible that commercially available environmental test chambers could approach this threshold due to natural competitive pressures and the general interest among both satellite manufacturers and their customers in developing more reliable spacecraft. Unless there is a specific reason for the inclusion of this threshold, the commenter recommends that this control be removed.

Response to Comment #65: BIS accepts the changes suggested in this comment, in part. The control for the Torr technical threshold is currently in 1B018.b and it is deleted by this rule. The intent is to control chambers for ''spacecraft.'' The chambers will only be controlled in 9B515.c if ''specially designed'' for commodities enumerated in 9A515.a or USML Category XV(a).

Comments Related to 9D515

Comment #66: One commenter requested the addition of a note to 9D515 that clarifies the jurisdiction of software common to both USML and CCL satellites. The note should state that if software is not specially designed or modified for a satellite controlled under the USML, it is subject to the EAR and controlled under this ECCN.

Response to Comment #66: BIS does not accept the changes suggested by the commenter. Software is ITAR controlled if it meets the definition of § 120.10 of the ITAR (i.e., it is ''required'' for one of the functions listed in 120.10) and is also, per USML Category XV(f), ''directly related'' to a USML Category XV spacecraft or other defense article in USML XV. Software that is completely common to ITAR and EAR items would not meet this threshold. Thus, the requested note is not necessary.

Comments Related to 9E515

Comment #67: Ten commenters requested that BIS apply controls on the technology for the three defined terms ''development,'' ''production,'' and ''use'' and not apply control to technology on the six disjunctive elements of the defined term ''use,''

namely operation, installation, maintenance, repair, overhaul and refurbishing. Two of the commenters further noted that technical data and technical assistance required for any one of the disjunctive elements of use does not fit within the Part 772 definition of technology as a threshold matter due to the use of the defined terms ''development,'' ''production'' and ''use.'' Additionally, one commenter noted that the expansion of technology controls to include operation, installation, maintenance, or repair activities in connection with 9x515 and ''600 series'' items is in contradiction to the approach DDTC appears to be taking in revising the ITAR definition of defense services and the potential revision of the definition of technical data.

Response to Comment #67: BIS adopted controls on elements of the defined term ''use'' for the ''600 series'' technology ECCNs, and proposed such controls for 9E515 to maintain continuity of control over the technical data and defense services for the items transitioning to the CCL that was controlled on the ITAR. Controls on the technology required for each of the listed disjunctive elements in each technology ECCN are appropriate to retain the necessary level of control consistent with the national security interests of the United States. Specifically with regard to 9E515, this was also done to conform to the 1248 Report and to identify for Congress where all items controlled in USML Category XV are controlled on the CCL.

In response to these comments, BIS, in consultation with other departments and agencies of the U.S. Government, has reviewed the use of various combinations of the disjunctive elements, operation, installation, maintenance, repair, overhaul and refurbishing, and determined that for most 9E515 technology, export controls on the technology for the operation and maintenance of those items are not necessary. BIS has also determined that all technology controls on the ground stations described in 9A515.b are unnecessary. Therefore, BIS has revised 9E515.a to exclude technology for items controlled in 9A515.b, 9A515.d, 9A515.e, and removed the words operation and maintenance. BIS also added a parenthetical following the word repair to make it clear that repair includes any on-orbit anomaly resolution and analysis when it goes beyond established procedures.

Comment #68: Five commenters suggested that 9E515 be revised to clarify any potential overlap between 9E515.a and 9E515.b.

Response to Comment #68: BIS has reviewed and revised 9E515 to clarify the difference between the technologies controlled in each paragraph, as described in Response to Comment #67.

Comment #69: Several commenters asked BIS and DDTC to confirm that various types of telemetry—i.e., communications to and from satellites and other spacecraft, whether on the ground, in the air, or in space—are not subject to the ITAR or the EAR, or, if so, to exclude them from the controls over satellite and spacecraft technology and technical data in USML Categories XV(f) and 9E515.

Response to Comment #69: Based on a review of the comments and the types of information pertaining to satellites and spacecraft that warrant control, BIS and DDTC have determined to codify existing policy within the regulations that data transmitted to or from a satellite or spacecraft, whether real or simulated, should not be subject to the ITAR and should not fall within the scope of the EAR's definition of ''technology,'' if it is limited to information about the health, operational status, or function of, or raw sensor output from, the spacecraft, spacecraft payload, or its associated subsystems or components. Such information is often referred to as housekeeping data. In addition, the act of processing such telemetry data—i.e., converting raw data into engineering units or readable products—or encrypting it does not, in and of itself, cause the telemetry data to become subject to the ITAR or to ECCN 9E515. To implement this determination, DDTC has added a note to USML Category XV(f) that such information is not subject to the ITAR, and BIS has added a note to 9E515 that such information, to the extent it would be subject to the EAR, is not within the scope of information captured within the definition of ''technology'' in the EAR.

These notes do not indicate that other types of technical data, as defined in ITAR § 120.10, directly related to USML Category XV items and other types of technology, as defined in EAR § 772.1, required for 9A515 items are no longer controlled. In addition, the notes to USML Category XV(f) and 9E515 do not change the ITAR-control status of classified information directly related to defense articles and defense services on the U.S. Munitions List and 600-series items subject to the EAR, as well as information covered by an invention secrecy order. ''Classified,'' for these purposes, means that which is classified pursuant to Executive Order 13526, predecessor or successor order, or to the corresponding classification rules of another government or international organization.

Comment #70: One commenter suggested that BIS delete the quotation marks around the term ''technology'' in 9E515 because these alterations would create a different definition for the term than the one that currently exists in the EAR.

Response to Comment #70: BIS does not accept the changes suggested by the commenter. BIS has denominated the technology that is appropriate for control given the national security concerns relevant to the various items controlled in the 9x515 ECCNs. BIS will be undertaking a larger project to review the technology definitions and controls in the EAR and to harmonize, where appropriate, the technology controls with those in the ITAR.

Comment #71: One commenter requested that BIS address how the terms installation, maintenance, repair, overhaul or refurbishing will apply to technology for items controlled in 9A515.a, end-item spacecraft. For example, would data provided to satellite operators for post-launch operations (*e.g.,* orbit-raising) meet this definition? The commenter noted that the terms installation, maintenance, repair, overhaul or refurbishing seem to apply only to the ground control systems controlled under 9A515.b. The commenter requested that BIS revise 9E515 so that installation, maintenance, repair, overhaul or refurbishing technology are only controlled for ground control systems listed under 9A515.b, ''equipment'' controlled by 9B515, and ''software'' controlled by 9D515.

Response to Comment #71: As detailed in Response to Comment #69, BIS has revised 9E515.a so that it now controls technology ''required'' for the ''development,'' ''production,'' installation, repair (including on-orbit anomaly resolution and analysis beyond established procedures), overhaul or refurbishing of commodities controlled by 9A515 (except 9A515.d. or .e), 9B515, or ''software'' controlled by 9D515.a. 9E515.b now controls technology ''required'' for the ''development,'' ''production,'' e.g., failure analysis and anomaly resolution of software controlled by 9D515.b. One of the revisions to 9E515.a also makes clear that the control of repair technology includes on-orbit anomaly resolution and analysis, beyond established procedures. However, standard post-launch operations (*e.g.,* orbit-raising), orbit maintenance and other movement of the spacecraft on-orbit do not fall within the controlled technology. If an exporter has any

question whether certain specific information is technology for an item in 9A515.a, BIS recommends that the exporter submit a classification request to BIS and this will be a fact-based inquiry.

Comment #72: One commenter suggested that export licensing requirements should only focus on the export of hardware, such as amateur radio satellite subsystems or complete amateur radio satellites, and not on technology related to that hardware.

Response to Comment #72: BIS does not accept the change suggested by the commenter. Technology for commodities and software is often just as significant, and is sometimes even more significant, than the commodities derived from the technology. Teaching other countries how to design, develop or produce these items imparts the capacity to create the items domestically. Therefore, BIS continues to maintain controls on technology. However, BIS has reviewed 9E515 and, as discussed in Response to Comment #69, has excluded controls on operation and maintenance technology for most items and expanded the scope of technology eligible for License Exception STA.

Comment #73: One commenter stated that this rule should do more to unburden university research and teaching regarding space technology.

Response to Comment #73: BIS understands that compliance with export controls in the university context can be complex and appreciates all the efforts by colleges and universities to vigilantly maintain compliance with the EAR and the ITAR. Although export controls are required on the basis of national security concerns arising from the potential proliferation of these items, BIS notes that classroom instruction is often not subject to the EAR. See § 734.9 of the EAR.

Comment #74: Four commenters stated that BIS should not attach license conditions to technology transfer licenses that are similar to the current DDTC TAA provisos.

Response to Comment #74: Licensing decisions and the license conditions attached to specific licenses are driven by the national security implications of the specific transaction under consideration. Specific license conditions are not set out in the regulations and, therefore, discussion of the appropriateness in any situation of any individual license condition is not germane to this regulatory revision.

Comment #75: Three commenters requested that BIS exclude controls on operation technology, because it is already exempt from the ITAR under § 125.4(b)(5).

Response to Comment #75: BIS has revised 9E515.a so that it no longer includes controls on technology merely for operation.

Comment #76: One commenter requested that, in the event that BIS decides that ''operation'' data should be controlled under 9E515.a, an exception for basic operations, maintenance, and training information similar to the one provided by § 125.4(b)(5) of the ITAR should be added in a note to the paragraph.

Response to Comment #76: BIS has revised 9E515 and .a no longer includes controls on technology for operation. However, when the EAR do control operation technology, License Exception TSU (§ 740.13) provides comparable authority for the export of operation and other basic technology with a legally exported item.

Comment #77: One commenter suggested that there is an overlap between the controls on technology for production, which includes the integration stage, and technology for installation and asked if ''installation'' in this ECCN has the same definition as in the definition of ''defense service'' proposed in the companion proposed DDTC rule.

Response to Comment #77: BIS recognizes that there is some conceptual overlap between the integration stage controlled as production technology and installation technology. There is also conceptual overlap between various stages of development and production technology and certain technology involved in the repair, overhaul, or refurbishing or items. At this time, all controlled technology for 9x515 items has the same level of control, so whether a particular piece of information is required for production or only for installation is academic. As noted above, BIS intends to engage in a review of technology controls and to coordinate with DDTC to harmonize technology controls between the EAR and the ITAR.

Comment #78: Three commenters suggested that development and production technology should be in 9E515.a.

Response to Comment #78: BIS accepts the change suggested by the commenters, except for development and production technology for radiation-hardened microelectronic circuits controlled in 9A515.d or 9A515.e. Due to the sensitive nature of radiation hardening technology, it was necessary to continue to exclude all technology related to the radiation hardened and radiation tolerant microelectronic circuits in 9A515.d and .e from STA eligibility, including the technology for the development or production of these items.

Comment #79: Three commenters requested that controls on technology for the design verification, quality control and manufacturability be moved to 9E515.a, and not be subject to licensing in the same way as production and development technology.

Response to Comment #79: BIS has revised 9E515 to no longer use the terms design verification, quality control and manufacturability. These were undefined terms which may have caused confusion and which became unnecessary once 9E515 was revised.

Comment #80: Two commenters suggested that BIS develop a definition for manufacturability to distinguish it from development and production technology, exclude it from the controls on development and production technology in 9A515.a, and retain the control in 9E515.b.

Response to Comment #80: BIS has revised 9E515 so that it no longer uses the term ''manufacturability'' to avoid any confusion.

Comment #81: Two commenters suggested that BIS clarify its definition of ''build-to-print'' technology and some of the elements in Proposed 9E515.b, with which it appears to conflict.

Response to Comment #81: BIS has revised 9E515 so that it no longer uses the term build-to-print to enhance clarity and avoid any confusion.

Comment #82: One commenter suggested that BIS create a 9E515.y paragraph to control low-level technology.

Response to Comment #82: As discussed above in response to comment #63, BIS did accept a comment to create a 9A515.y paragraph for items that are ''specially designed'' for items in 9A515 or USML Category XV that the U.S. Government determines do not warrant control in 9A515.x. As also discussed above, BIS will continue to review technology controlled by 9E515 to determine whether lower levels of controls on some types of space-related technologies are warranted.

Comment #83: Five commenters expressed support for keeping the passenger and participant spaceflight experience EAR99.

Response to Comment #83: BIS agrees that export controls on the passenger and participant spaceflight experience are not necessary and has revised the note to 9E515, now Note 2 to 9E515, to clarify the scope of the technology related to the passenger and participant

spaceflight experience, which is not subject to the ITAR or the EAR.

Comments Related to the International Space Station (ISS)

Comment #84: One commenter suggested that BIS delete the Related Control Note 6 in 9A004 and move ISS technology from the USML to 9E001 and 9E002.

Response to Comment #84: BIS accepts the change suggested by the commenter and revises all of the Related Control Notes to 9A004 and the text of the List of Items Controlled paragraph. The USML has been revised to exclude the ISS and all specially designed parts and components therefor. See USML Category XV, note to paragraph (a)(12). Therefore, the ISS will remain controlled in 9A004.a and the parts, components, accessories and attachments ''specially designed'' for the ISS will be controlled in a new 9A004.x. The result of this exclusion on the ITAR is also to remove the technology directly related to the ISS and its specially designed parts and components from the USML to the CCL. The technology controls for 9A004 are 9E001 for development technology and 9E002 for production technology.

Comment #85: One commenter suggested that BIS revise 9A004 Related Controls (4) by deleting ''and related articles'' and ''and 9B515.''

Response to Comment #85: As discussed above in the response to comment #84, BIS has revised all of the Related Control paragraphs in 9A004, and this comment is no longer relevant.

Comments Related to Other ECCNs

Comment #86: One commenter asked if BIS intends to remove the related controls 3 and 4 from 3A001.

Response to Comment #86: BIS did not propose any changes to related controls 3 and 4 in 3A001 and does not make any changes in this rule.

Comment #87: One commenter suggested that BIS edit several ECCNs paragraphs in 3A001, 3A002, 3A101, 3D001, 3D101, 3E001, 5A001, 6A002, 7A004, 7A104, 9A004 and 9A116 to identify potential overlaps with the USML or 9A515 and remove references to the USML or 9A515 from the related control paragraphs in those ECCNs.

Response to Comment #87: BIS does not accept the changes suggested by the commenter. BIS uses the convention of identifying related controls, including potentially overlapping controls, in the related controls paragraph and not in each ECCN paragraph. The order of review directs parties classifying an item to review USML before reviewing the CCL and to review the 9x515 ECCNs before reviewing any other ECCNs. Therefore, when the USML describes an item, it is controlled on the USML, and when 9A515 describes an item, it is controlled in 9A515, even if also described in another ECCN.

Comment #88: One commenter suggested that BIS revise the MT reason for control paragraph in 3A001 and 9A515.

Response to Comment #88: BIS does not accept the change suggested by the commenter. Quoting the MTCR text is more precise.

Comment #89: One commenter suggested that BIS revise the List of Items Controlled paragraph in 3A001 and the heading to 3D101.

Response to Comment #89: BIS does not accept the change suggested by the commenter because it is outside the scope of the May 24 (spacecraft) rule.

Comment #90: One commenter suggested that BIS revised 6A002 by deleting Related Control paragraph (1).

Response to Comment #90: BIS does not accept the change suggested by the commenter. In addition to controls in USML Category XV on certain ''space-qualified'' optics, many of the image intensifiers and focal plane arrays described in Related Control paragraph (1) are controlled in USML Category XII and will be addressed when that paragraph is revised. Additionally, items that are ''specially designed'' for military use will be controlled on the USML or in the ''600 series'' in most circumstances.

Comment #91: One commenter suggested that BIS delete Related Controls (2) in 6A004.

Response to Comment #91: BIS acknowledges the commenter's support for this proposed revision, which appeared in the May 24 (spacecraft) rule, and has implemented the change in this final rule.

Comment #92: One commenter suggested that BIS revise 7A005 by deleting the License Requirements reference that these items are subject to DDTC export licensing authority, and revising the related controls paragraph.

Response to Comment #92: BIS does not accept the suggested change by the commenter because it is outside the scope of the May 24 (spacecraft) rule. Major revisions to the controls on GPS will be addressed in the revisions of USML Category XII and the companion EAR ''600 series'' ECCNs. Additionally, this ECCN is currently subject to the ITAR and is licensed for export by DDTC.

Comment #93: One commenter suggested that BIS revise 7A105 to read: ''Receiving equipment for Global Navigation Satellite Systems (GNSS) (e.g., GPS, GLONASS or Galileo), designed or modified for airborne applications and capable of providing navigation information at speeds in excess of 600 m/s (1,165 nautical miles/hour). MT applies to entire entry. MT Column 1. Related Controls: See also USML Category XV(c) and 7A005.'' (To conform with MTCR 11.A.3.b.1).

Response to Comment #93: BIS accepts the changes suggested by the commenter. Although revisions to USML controls on GPS items will be addressed in revisions of USML Category XII, the revised USML Category XV has removed paragraph XV(c)(2). The GPS described in that paragraph therefore moves to the CCL. Because 7A105 describes the MTCR control on that type of GPS and GPS is not specifically related to spacecraft, it will be controlled in 7A105 and not within 9A515. The text of 7A105 is revised to match the current MTCR text, as accurately described in the comment and to add control for ''specially designed'' parts and components as well. The reasons for control will be Missile Technology (MT) and Anti-Terrorism (AT) and a license will be required for all destinations other than Canada.

Export Administration Act

Although the Export Administration Act expired on August 20, 2001, the President, through Executive Order 13222 of August 17, 2001, 3 CFR, 2001 Comp., p. 783 (2002), as amended by Executive Order 13637 of March 8, 2013, 78 FR 16129 (March 13, 2013) and as extended by the Notice of August 8, 2013, 78, 2013, 78 FR 49107 (August 12, 2013), has continued the Export Administration Regulations in effect under the International Emergency Economic Powers Act. BIS continues to carry out the provisions of the Export Administration Act, as appropriate and to the extent permitted by law, pursuant to Executive Order 13222 as amended by Executive Order 13637.

Rulemaking Requirements

1. Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distribute impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has been designated a ''significant regulatory

action,'' although not economically significant, under section 3(f) of Executive Order 12866. Accordingly, the rule has been reviewed by the Office of Management and Budget (OMB).

2. Notwithstanding any other provision of law, no person is required to respond to, nor is subject to a penalty for failure to comply with, a collection of information, subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid OMB control number. This rule affects two approved collections: Simplified Network Application Processing System (control number 0694–0088), which includes, among other things, license applications, and License Exceptions and Exclusions (0694–0137).

BIS believes that the effect of adding items to the EAR that would be removed from the ITAR as a result of this rule as part of the administration's Export Control Reform Initiative would increase the number of license applications to be submitted to BIS by approximately 1,500 annually, resulting in an increase in burden hours of 425 (1,500 transactions at 17 minutes each) under control number 0694–0088.

Most ''spacecraft'' and ground control systems, ''space-qualified'' ''parts,'' ''components,'' ''accessories'' and ''attachments,'' and related ''software'' and ''technology'' formerly on the USML would become eligible for License Exception STA under this rule. BIS believes that the increased use of License Exception STA resulting from the effect of adding items to the EAR that would be removed from the ITAR as a result of this rule as part of the Administration's Export Control Reform Initiative would increase the burden associated with control number 0694–0137 by about 2,258 hours (1,935 transactions @ 1 hour and 10 minutes each). BIS expects that this increase in burden would be more than offset by a reduction in burden hours associated with approved collections related to the ITAR. The largest impact of the rule would likely apply to exporters of parts, components, accessories, and attachments specifically designed or modified for satellite and other ''spacecraft'' items that would have been approved for export under the ITAR pursuant to a license for export to NATO allies and regime partners. Because, with few exceptions, the ITAR allows exemptions from license requirements only for certain exports to Canada, most exports of such parts, even when destined to NATO and other allied countries, require specific State Department authorization. Under the EAR, as included in this rule, such ''parts'' and ''components'' would become eligible for export to countries that are NATO and other multi-regime allies under License Exception STA. Use of License Exception STA imposes a paperwork and compliance burden because, for example, exporters must furnish information about the item being exported to the consignee and obtain from the consignee an acknowledgement and commitment to comply with the EAR. However, the Administration understands that complying with the burdens of STA is likely less burdensome than applying for licenses or other approval from the State Department. For example, under License Exception STA, a single consignee statement can apply to an unlimited number of products, need not have an expiration date, and need not be submitted to the government in advance for approval. Suppliers with regular customers can tailor a single statement and assurance to match their business relationship, rather than applying repeatedly for licenses with every purchase order to supply reliable customers in countries that are close allies or members of export control regimes or both.

Even in situations in which a license would be required under the EAR, the burden is likely to be reduced compared to the license requirement of the ITAR. In particular, license applications for exports of ''technology'' controlled by 9E515 are likely to be less complex and burdensome than the authorizations required to export ITAR-controlled ''technology,'' *i.e.,* Manufacturing License Agreements and Technical Assistance Agreements.

3. This rule does not contain policies with Federalism implications as that term is defined under E.O. 13132.

4. The Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 *et seq.,* generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to the notice and comment rulemaking requirements under the Administrative Procedure Act (5 U.S.C. 553) or any other statute, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Under section 605(b) of the RFA, however, if the head of an agency certifies that a rule will not have a significant impact on a substantial number of small entities, the statute does not require the agency to prepare a regulatory flexibility analysis. Pursuant to section 605(b), the Chief Counsel for Regulation, Department of Commerce, submitted a memorandum to the Chief Counsel for Advocacy, Small Business Administration, certifying that this rule will not have a significant impact on a substantial number of small entities. A summary of the factual basis for this certification follows.

5. To the extent that any changes to the EAR made by this rulemaking are outside the scope of the logical outgrowth of the changes proposed in the May 24 (spacecraft) rule and the public comments received on that rule, the provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking and the opportunity for public comment are waived for good cause as it is contrary to the public interest. (5 U.S.C. 553(b)(B)). BIS implements the new provisions in section paragraph (y) in Supplement No. 2 to Part 748 in this rule to protect U.S. national security or foreign policy interests by preventing the unauthorized export of satellites and unauthorized release of technology related to satellites and launch vehicles. Executive Order 13222 as amended by Executive Order 13637, promulgated, in part, pursuant to § 203 of the International Emergency Economic Powers Act (50 U.S.C. 1702), declares the unrestricted access of foreign parties to U.S. goods and technology to constitute an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States and declares a national emergency with respect to that threat BIS continues to carry out the provisions of the Export Administration Act pursuant to this emergency authority. Additionally, the Congress of the United States has declared that it is in the national security interests of the United States that satellites be subject to the same export controls that apply to munitions. (Section 1511(5) of the 1999 NDAA). Further, Congress has conditioned the removal of satellites from the USML on a determination that the removal of such satellites is in the national security interests of the United States. (Section 1261(b)(1) of the 2013 NDAA). The provisions in paragraph (y) in Supplement No. 2 to Part 748 are implemented to prevent the export of technology related to satellite launches by unauthorized persons. Without this provision, BIS would lack sufficient information to ensure that the exporter has complied with the statutory requirements for the foreign launch of U.S.-origin satellites and related technology that could be released in a manner that is inconsistent with the U.S. national interest. If BIS cannot

confirm that the required approvals from DOD and NSA and that the appropriate monitoring has been arranged, BIS will not be able to ensure that U.S. national security concerns are appropriately addressed in relation to the export. For this reason, BIS finds good cause to waive prior notice and opportunity for public comment.

Number of Small Entities

BIS does not collect data on the size of entities that apply for and are issued export licenses. Although BIS is unable to estimate the exact number of small entities that would be affected by this rule, it acknowledges that this rule would affect some unknown number.

Economic Impact

This rule is part of the Administration's Export Control Reform Initiative. Under that initiative, the USML (22 CFR part 121) would be revised to be a ''positive'' list, *i.e.,* a list that does not use generic, catch-all controls on any part, component, accessory, attachment, or end item that was in any way specifically modified for a defense article, regardless of the article's military or intelligence significance or non-military applications. At the same time, articles that are determined to no longer warrant control on the USML would become controlled on the CCL. ''Spacecraft'' and related items so designated will be identified in specific ECCNs known as the 9x515 ECCNs. In practice, the greatest impact of this rule on small entities would likely be reduced administrative costs and reduced delay for exports of items that are now on the USML but would become subject to the EAR.

Many ''spacecraft'' and specific parts and components would remain on the USML. However, ''parts,'' ''components,'' ''accessories,'' and ''attachments'' for such ''equipment'' would be included on the CCL unless expressly enumerated on the USML. Such ''parts'' and ''components'' are more likely to be produced by small businesses than complete ''spacecraft,'' which would in many cases become subject to the EAR. Moreover, officials at the Department of State have informed BIS that license applications for such ''parts'' and ''components'' are a high percentage of the license applications for USML articles reviewed by that department. The changes in this rule will not result in the decontrol of such items, but will reduce administrative and collateral regulatory burdens by, for example, allowing for the use of License Exception STA for exports to NATO and other multi-regime allied countries.

Thus, changing the jurisdictional status of certain Category XV articles would reduce the burden on small entities (and other entities as well) through: Elimination of some license requirements, greater availability of license exceptions, simplification of license application procedures, and reduction (or elimination) of registration fees. In addition, parts and components controlled under the ITAR remain under ITAR control when incorporated into foreign-made items, regardless of the significance or insignificance of the item, discouraging foreign buyers from incorporating such U.S. content.

Exporters and reexporters of the Category XV articles, particularly ''parts'' and ''components,'' that would be placed on the CCL by this rule would need fewer licenses because their transactions would become eligible for license exceptions that apply to shipments to United States Government agencies, shipments valued at less than $1,500, ''parts'' and ''components'' being exported for use as replacement parts, temporary exports, and License Exception Strategic Trade Authorization (STA). License Exceptions under the EAR would allow suppliers to send routine parts and low level parts to NATO and other export control regime partner countries without having to obtain export licenses. Under License Exception STA, the exporter would need to furnish information about the item being exported to the consignee and obtain a statement from the consignee that, among other things, would commit the consignee to comply with the EAR and other applicable U.S. laws.

Because such statements and obligations can apply to an unlimited number of transactions and have no expiration date, they would impose a net reduction in burden on transactions that the government routinely approves through the license application process that the License Exception STA statements would replace.

Even for exports and reexports in which a license would be required, the process would be simpler and less costly under the EAR than under the USML. When a USML Category XV article moves to the CCL, the number of destinations for which a license is required would remain unchanged. However, the burden on the license applicant would decrease because the licensing procedure for CCL items is simpler and more flexible than the license procedure for USML articles.

Under the USML licensing procedure, an applicant must include a purchase order or contract with its application. There is no such requirement under the CCL licensing procedure. This difference gives the CCL applicant at least two advantages. First, the applicant has a way of determining whether the U.S. Government will authorize the transaction before it enters into potentially lengthy, complex, and expensive sales presentations or contract negotiations. Under the USML procedure, the applicant will need to caveat all sales presentations with a reference to the need for government approval, and is more likely to have to engage in substantial effort and expense only to find that the government will reject the application. Second, a CCL license applicant need not limit its application to the quantity or value of one purchase order or contract. It may apply for a license to cover all of its expected exports or reexports to a particular consignee over the life of a license (normally four years, but may be longer if circumstances warrant a longer period), reducing the total number of licenses for which the applicant must apply.

In addition, many applicants, who are exporting or reexporting items that this rule would transfer from the USML to the CCL, would realize cost savings through the elimination of some or all registration fees currently assessed under the USML's licensing procedure. Currently, USML applicants must pay to use the USML licensing procedure even if they never actually are authorized to export. Registration fees for manufacturers and exporters of articles on the USML start at $2,250 per year, increase to $2,750 for organizations applying for one to ten licenses per year and further increases to $2,750 plus $250 per license application (subject to a maximum of three percent of total application value) for those who need to apply for more than ten licenses per year.

There are no registration costs or application processing fees for applications to export items listed on the CCL. Once the Category XV articles that are the subject of this rulemaking are added to the CCL and removed from the USML, entities currently applying for licenses from the Department of State would find their registration fees reduced if the number of USML licenses those entities need declines. If an entity's entire product line is moved to the CCL, then its ITAR registration and registration fee requirement would be eliminated, and it would no longer incur that expense.

De minimis treatment under the EAR would also become available for all items that this rule would transfer from

the USML to the CCL, except for items destined to embargoed destinations in Country Group D:5. Items subject to the ITAR remain subject to the ITAR when they are incorporated abroad into a foreign-made product, regardless of the percentage of U.S. content in that foreign-made product. Foreign-made products that incorporate items that this rule would move to the CCL would be subject to the EAR only if their total controlled U.S.-origin content exceeds 25 percent for most destinations. Because including small amounts of U.S.-origin content would not subject foreign-made products to the EAR, foreign manufacturers would have less incentive to avoid such U.S.-origin ''parts'' and ''components,'' a development that potentially would mean greater sales for U.S. suppliers, including small entities.

Conclusion

BIS is unable to determine the precise number of small entities that would be affected by this rule. Based on the facts and conclusions set forth above, BIS believes that any burdens imposed by this rule would be offset by the reduction in the number of items that would require a license, increased opportunities for use of license exceptions for exports to certain countries, simpler export license applications, reduced or eliminated registration fees and application of a *de minimis* threshold for foreign-made items incorporating U.S.-origin ''parts'' and ''components,'' which would reduce the incentive for foreign buyers to design out or avoid U.S.-origin content. For these reasons, the Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule, if adopted in final form, would not have a significant economic impact on a substantial number of small entities.

BIS did not receive any comments regarding the economic impacts of this rule. As a result, a final regulatory flexibility analysis was not required and one was not prepared.

List of Subjects

15 CFR Parts 732, 734, 740, 744, 748 and 758

Administrative practice and procedure, Exports, Reporting and recordkeeping requirements.

15 CFR Parts 736 and 772

Exports.

15 CFR Parts 742 and 774

Exports, Reporting and recordkeeping requirements.

Accordingly, the Export Administration Regulations (15 CFR Parts 730–774) are amended as follows:

PART 732—[AMENDED]

■ 1. The authority citation for 15 CFR part 732 continues to read as follows:

Authority: 50 U.S.C. app. 2401 et seq.; 50 U.S.C. 1701 et seq.; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 8, 2013, 78 FR 49107 (August 12, 2013).

■ 2. Supplement No. 3 to part 732 is amended by revising paragraphs (b)13. and (b)14. to read as follows:

SUPPLEMENT NO. 3 TO PART 732—BIS'S ''KNOW YOUR CUSTOMER'' GUIDANCE AND RED FLAGS

* * * * *

(b) * * *

13. You receive an order for ''parts'' or ''components'' for an end item in 9x515 or the ''600 series.'' The requested ''parts'' or ''components'' may be eligible for License Exception STA, another authorization, or may not require a destination-based license requirement for the country in question. However, the requested ''parts'' or ''components'' would be sufficient to service one hundred of the 9x515 or ''600 series'' end items, but you ''know'' the country does not have those types of end items or only has two of those end items.

14. The customer indicates or the facts pertaining to the proposed export suggest that a 9x515 or ''600 series'' item may be reexported to a destination listed in Country Group D:5 (see Supplement No. 1 to part 740 of the EAR).

PART 734—[AMENDED]

■ 3. The authority citation for 15 CFR part 734 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13020, 61 FR 54079, 3 CFR, 1996 Comp., p. 219; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13637 of March 8, 2013, 78 FR 16129 (March 13, 2013); Notice of August 8, 2013, 78 FR 49107 (August 12, 2013); Notice of November 7, 2013, 78 FR 67289 (November 12, 2013).

■ 4. Section 734.4 is amended by revising paragraph (a)(6) to read as follows:

§ 734.4 De minimis U.S. content.

(a) * * *

(6) ''600 series.''

(i) There is no de minimis level for foreign-made items that incorporate U.S.-origin 9x515 or ''600 series'' items enumerated or otherwise described in paragraphs .a through .x of a 9x515 or ''600 series'' ECCN when destined for a country listed in Country Group D:5 of Supplement No. 1 to part 740 of the EAR.

(ii) There is no de minimis level for foreign-made items that incorporate U.S.-origin 9x515 or ''600 series'' .y items when destined for a country listed in Country Group E:1 of Supplement No. 1 to part 740 of the EAR or for the People's Republic of China (PRC).

* * * * *

PART 736—[AMENDED]

■ 5. The authority citation for 15 CFR part 736 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* 22 U.S.C. 2151 note; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13020, 61 FR 54079, 3 CFR, 1996 Comp., p. 219; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13338, 69 FR 26751, 3 CFR, 2004 Comp., p. 168; Notice of May 7, 2013, 78 FR 27301 (May 9, 2013); Notice of August 8, 2013, 78 FR 49107 (August 12, 2013); Notice of November 7, 2013, 78 FR 67289 (November 12, 2013).

■ 6. Section 736.2 is amended by revising paragraphs (b)(3)(iii) through (v) to read as follows:

§ 736.2 General prohibitions and determination of applicability.

* * * * *

(b) * * *

(3) * * *

(iii) *Additional country scope of prohibition for 9x515 or ''600 series'' items.* You may not, except as provided in paragraphs (b)(3)(v) or (vi) of this section, reexport or export from abroad without a license any ''600 series'' item subject to the scope of this General Prohibition Three to a destination in Country Groups D:1, D:3, D:4, D:5 or E:1 (see Supplement No. 1 to part 740 of the EAR). You may not, except as provided in paragraphs (b)(3)(v) or (vi) of this section, reexport or export from abroad without a license any 9x515 item subject to the scope of this General Prohibition Three to a destination in Country Groups D:5 or E:1 (see Supplement No. 1 to part 740 of the EAR).

(iv) *Product scope of 9x515 and ''600 series'' items subject to this prohibition.* This General Prohibition Three applies if a 9x515 or ''600 series'' item meets either of the following conditions:

(A) *Conditions defining direct product of ''technology'' or ''software'' for 9x515 and ''600 series'' items.* Foreign-made 9x515 and ''600 series'' items are subject to this General Prohibition Three if the foreign-made items meet both of the following conditions:

(*1*) They are the direct product of ''technology'' or ''software'' that is in the 9x515 or ''600 series'' as designated on the applicable ECCN of the

Commerce Control List in Supplement No. 1 to part 774 of the EAR; and

(*2*) They are in the 9x515 or ''600 series'' as designated on the applicable ECCN of the Commerce Control List in part 774 of the EAR.

(B) *Conditions defining direct product of a plant for 9x515 and ''600 series'' items.* Foreign-made 9x515 and ''600 series'' items are also subject to this General Prohibition Three if they are the direct product of a complete plant or any major component of a plant if both of the following conditions are met:

(*1*) Such plant or major component is the direct product of 9x515 or ''600 series'' ''technology'' as designated on the applicable ECCN of the Commerce Control List in part 774 of the EAR, and

(*2*) Such foreign-made direct products of the plant or major component are in the 9x515 or ''600 series'' as designated on the applicable ECCN of the Commerce Control List in part 774 of the EAR.

(v) 9x515 and ''600 series'' foreign-produced direct products of U.S. ''technology'' or ''software'' subject to this General Prohibition Three do not require a license for reexport or export from abroad to the new destination unless the same item, if exported from the U.S. to the new destination would have been prohibited or made subject to a license requirement by part 742, 744, 746, or 764 of the EAR.

* * * * *

PART 740—[AMENDED]

■ 7. The authority citation for 15 CFR part 740 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* 22 U.S.C. 7201 *et seq.;* E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 8, 2013, 78 FR 49107 (August 12, 2013).

■ 8. Section 740.2 is amended by revising paragraph (a)(5)(i), removing and reserving paragraph (a)(7), revising paragraphs (a)(12) introductory text and (a)(12)(i), and adding paragraph (a)(18), effective July 1, 2014, to read as follows:

§ 740.2 Restrictions on all license exceptions.

(a) * * *

(5) * * *

(i) The item is controlled for missile technology (MT) reasons, except that the items described in ECCNs 6A008, 7A001, 7A002, 7A004, 7A101, 7A102, 7A103, 7A104, 7A105, 7B001, 7D001, 7D002, 7D003, 7D101, 7D102, 7E003, 7E101 or 9A515, may be exported as part of a spacecraft, manned aircraft, land vehicle or marine vehicle or in quantities appropriate for replacement parts for such applications under § 740.9(a)(4) (License Exception TMP for kits consisting of replacement parts), § 740.10 (License Exception RPL), § 740.13 (License Exception TSU), or § 740.15(b) (License Exception AVS for equipment and spare parts for permanent use on a vessel or aircraft).

* * * * *

(7) [RESERVED]

* * * * *

(12) The item is described in a 9x515 or ''600 series'' ECCN and is destined to, shipped from, or was manufactured in a destination listed in Country Group D:5 (see Supplement No. 1 to part 740 of the EAR), except that:

(i) 9x515 or ''600 series'' items destined to, or in, Country Group D:5 are eligible for License Exception GOV (§ 740.11(b)(2) of the EAR); and

* * * * *

(18) 9x515 items that are controlled for missile technology (MT) reasons may not be exported, reexported, or transferred (in-country) under License Exception STA (§ 740.20 of the EAR).

* * * * *

■ 9. Section 740.9 is amended by revising the last sentence of paragraph (a) introductory text to read as follows:

§ 740.9 Temporary imports, exports, reexports, and transfers (in-country) (TMP).

(a) * * * The references to various countries and country groups in these TMP-specific provisions do not limit or amend the prohibitions in § 740.2 of the EAR on the use of license exceptions generally, such as for exports of 9x515 or ''600 series'' items to destinations in Country Group D:5.

* * * * *

■ 10. Section 740.10 is amended by revising paragraphs (a)(3)(viii), (a)(4)(ii), (b)(1), and (b)(3)(i)(F) to read as follows:

§ 740.10 License Exception Servicing and replacement of parts and equipment (RPL).

* * * * *

(a) * * *

(3) * * *

(viii) ''Parts,'' ''components,'' ''accessories,'' and ''attachments'' classified in 9x515 or ''600 series'' ECCNs may not be exported or reexported to a destination listed in Country Group D:5 (see Supplement No. 1 to this part).

(4) * * *

(ii) The conditions described in paragraph (a)(3) relating to replacement of ''parts,'' ''components,'' ''accessories,'' or ''attachments'' (excluding 9x515 and ''600 series'' ECCNs) do not apply to reexports to a foreign country of ''parts,'' ''components,'' ''accessories,'' or ''attachments'' as replacements in foreign-origin products, if at the time the replacements are furnished, the foreign-origin product is eligible for export to such country under any of the License Exceptions in this part or the foreign-origin product is not subject to the EAR pursuant to § 734.4.

* * * * *

(b) * * *

(1) Scope. The provisions of this paragraph (b) authorize the export and reexport to any destination, except for 9x515 or ''600 series'' items to destinations identified in Country Group D:5 (see Supplement No. 1 to this part) or otherwise prohibited under the EAR, of commodities and software that were returned to the United States for servicing and the replacement of defective or unacceptable U.S.-origin commodities and software.

* * * * *

(3) * * *

(i) * * *

(F) Commodities or ''software'' ''subject to the EAR'' and classified in 9x515 or ''600 Series'' ECCNs may not be exported or reexported to a destination identified in Country Group D:5 (see Supplement No. 1 to this part).

* * * * *

■ 11. Section 740.15 is amended by revising the heading and the introductory text, and adding paragraph (e), to read as follows:

§ 740.15 Aircraft, vessels and spacecraft (AVS).

This License Exception authorizes departure from the United States of foreign registry civil aircraft on temporary sojourn in the United States and of U.S. civil aircraft for temporary sojourn abroad; the export of equipment and spare parts for permanent use on a vessel or aircraft; exports to vessels or planes of U.S. or Canadian registry and U.S. or Canadian Airlines' installations or agents; and the export of spacecraft and components for fundamental research. Generally, no License Exception symbol is necessary for export clearance purposes; however, when necessary, the symbol ''AVS'' may be used.

* * * * *

(e) *Spacecraft for launch.* This paragraph (e) authorizes the export by accredited U.S. institutions of higher learning of commodities subject to the EAR fabricated only for fundamental research purposes when all of the following conditions are met:

(1) The export is to an accredited institution of higher learning, a governmental research center, or an established government funded private research center located in a country other than Country Group D:5 (see Supp. No. 1 to this part) and involves exclusively nationals of such countries;

(2) All the information about the commodity, including its design, and all of the resulting information obtained through fundamental research involving the commodity will be published and shared broadly within the scientific community, and is not restricted for proprietary reasons or specific U.S. government access and dissemination controls or other restrictions accepted by the institution or its researchers on publication of scientific and technical information resulting from the project or activity (see § 734.11 of the EAR); and

(3) If the commodity is for permanent export, the platform or system into which the

commodity will be incorporated must be a scientific, research, or experimental satellite and must be exclusively concerned with fundamental research and may only be launched into space from countries and by nationals of countries not identified in Country Group D:5.

* * * * *

■ 12. Section 740.20 is amended by adding a new sentence to the end of paragraph (d)(2) introductory text and revising the heading of paragraph (g) and paragraph (g)(1) to read as follows:

§ 740.20 License Exception Strategic Trade Authorization (STA).

* * * * *

(d) * * *

(2) * * * Paragraph (vii) is also required for transactions including 9x515 items.

* * * * *

(g) *License Exception STA eligibility requests for 9x515 and ''600 series'' end items.* (1) *Applicability.* Any person may request License Exception STA eligibility for end items described in ECCN 0A606.a, ECCN 8A609.a, ECCN 8A620.a or .b, or ECCN 9A610.a or spacecraft described in 9A515.a that provide space-based logistics, assembly or servicing of any spacecraft (e.g., refueling).

PART 742—[AMENDED]

■ 13. The authority citation for 15 CFR part 742 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* 22 U.S.C. 3201 *et seq.;* 42 U.S.C. 2139a; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; Sec. 1503, Pub. L. 108–11, 117 Stat. 559; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Presidential Determination 2003–23 of May 7, 2003, 68 FR 26459, May 16, 2003; Notice of August 8, 2013, 78 FR 49107 (August 12, 2013); Notice of November 7, 2013, 78 FR 67289 (November 12, 2013).

■ 14. Section 742.4 is amended by revising paragraph (b)(1)(ii) and adding a new paragraph (b)(1)(iii), to read as follows:

§ 742.4 National security.

* * * * *

(b) * * *

(1) * * *

(ii) When destined to a country listed in Country Group D:5 in Supplement No. 1 to Part 740 of the EAR, however, items classified under 9x515 or ''600 series'' ECCNs will be reviewed consistent with United States arms embargo policies in § 126.1 of the ITAR.

(iii) When destined to the People's Republic of China or a country listed in Country Group E:1 in Supplement No. 1 to Part 740 of the EAR, items classified under any 9x515 ECCN will be subject to a policy of denial.

* * * * *

■ 15. Section 742.6 is amended by revising the first and fourth sentence and adding a new sentence to the end of paragraph (b)(1) to read as follows:

§ 742.6 Regional stability.

* * * * *

(b) *Licensing policy.* (1) Applications for exports and reexports of 9x515 and ''600 series'' items will be reviewed on a case-by-case basis to determine whether the transaction is contrary to the national security or foreign policy interests of the United States. * * * Applications for export or reexport of items classified under any 9x515 or ''600 series'' ECCN requiring a license in accordance with paragraph (a)(1) of this section will also be reviewed consistent with United States arms embargo policies in § 126.1 of the ITAR if destined to a country set forth in Country Group D:5 in Supplement No. 1 to part 740 of the EAR. * * * When destined to the People's Republic of China or a country listed in Country Group E:1 in Supplement No. 1 to Part 740 of the EAR, items classified under any 9x515 ECCN will be subject to a policy of denial.

* * * * *

PART 744—[AMENDED]

■ 16. The authority citation for 15 CFR part 744 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* 22 U.S.C. 3201 *et seq.;* 42 U.S.C. 2139a; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 12947, 60 FR 5079, 3 CFR, 1995 Comp., p. 356; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13099, 63 FR 45167, 3 CFR, 1998 Comp., p. 208; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13224, 66 FR 49079, 3 CFR, 2001 Comp., p. 786; Notice of January 17, 2013, 78 FR 4303 (January 22, 2013) Notice of August 8, 2013, 78 FR 49107 (August 12, 2013); Notice of September 18, 2013, 78 FR 58151 (September 20, 2013); Notice of November 7, 2013, 78 FR 67289 (November 12, 2013).

■ 17. Section 744.21 is amended by revising paragraph (a)(2) to read as follows:

§ 744.21 Restrictions on certain military end-uses in the People's Republic of China (PRC).

(a) * * *

(2) General prohibition. In addition to the license requirements for 9x515 and ''600 series'' items specified on the Commerce Control List (CCL), you may not export, reexport, or transfer (in-country) any 9x515 or ''600 series'' item, including items described in a .y paragraph of a 9x515 or ''600 series'' ECCN, to the PRC without a license.

* * * * *

PART 748—[AMENDED]

■ 18. The authority citation for 15 CFR part 748 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 8, 2013, 78 FR 49107 (August 12, 2013).

■ 19. Section 748.8 is amended by revising paragraph (x) and adding paragraph (y) to read as follows:

§ 748.8 Unique application and submission requirements.

* * * * *

(x) License application for a transaction involving a 9x515 and ''600 series'' item that is equivalent to a transaction previously approved under an ITAR license or other approval.

(y) Satellite exports.

■ 20. Supplement No. 1 to part 748 is amended by revising the first and fifth sentences of the final paragraph of Block 24 to read as follows:

Supplement No. 1 to Part 748—Item Appendix, and BIS–748P–B: End-User Appendix; Multipurpose Application Instructions

* * * * *

Block 24: Additional Information.

* * *

This Block should be completed if your application includes a 9x515 or ''600 series'' item that is equivalent to a transaction previously approved under an ITAR license or other approval.

* * * The classification of the 9x515 or ''600 series'' item in question will no longer be the same because the item would no longer be ''subject to the ITAR,'' but all other aspects of the description of the item must be the same in order to be reviewed under this expedited process under paragraph (x) of Supplement No. 2 to part 748 of the EAR.

* * * * *

■ 21. Supplement No. 2 to part 748 is amended by revising paragraph (x) and adding paragraph (y) to read as follows:

Supplement No. 2 to Part 748—Unique Application and Submission Requirements

* * * * *

(x) *License application for a transaction involving a 9x515 or ''600 series'' item that is equivalent to a transaction previously approved under an ITAR license or other approval.* To request that the U.S. Government review of a license application for a 9x515 or ''600 series'' item also take into consideration a previously approved ITAR license or other approval, applicants must also include the State license number or other approval identifier in Block 24 of the BIS license application (see the instructions in Supplement No. 1 to part 748 under Block 24).

* * * * *

(y) *Satellite exports.* (1) A license application to export a satellite controlled by ECCN 9A515.a to a country that is not a member of the North Atlantic Treaty Organization (NATO) or a major non-NATO ally of the United States (as defined in 22 C.F.R. sections 120.31 and 120.32), must include:

(i) A technology transfer control plan approved by the Department of Defense and an encryption technology control plan approved by the National Security Agency, or drafts reflecting advance discussions with the departments and information identifying the U.S. Government officials familiar with the preparation of such draft plans; and

(ii) Evidence of arrangements with the Department of Defense for monitoring of the launch activities.

(2) A license application to export a satellite controlled by ECCN 9A515.a to a country that is a member of the North Atlantic Treaty Organization (NATO) or that is a major non-NATO ally of the United States (as defined in 22 C.F.R. sections 120.31 and 120.32), must include:

(i) A technology transfer control plan approved by the Department of Defense and an encryption technology control plan approved by the National Security Agency, or documentation from the Department of Defense that such plans are not required; and

(ii) Evidence of arrangements with the Department of Defense for monitoring of the launch or documentation from the Department of Defense that such monitoring is not required.

Note 1 to Paragraph (y): Regardless of a satellite's or spacecraft's jurisdictional status, ownership, or origin, the ITAR controls as a ''defense service'' the furnishing of assistance (including training) by a U.S. person to a foreign person directly related to (a) the integration of a satellite or spacecraft to a launch vehicle or (b) launch failure analyses. See (See 22 CFR 121, Categories IV(i) and XV(f), and 22 CFR 124.15).

PART 758—[AMENDED]

■ 22. The authority citation for 15 CFR part 758 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 8, 2013, 78 FR 49107 (August 12, 2013).

■ 23. Section 758.1 is amended by revising paragraph (b)(3) to read as follows:

§ 758.1 The Electronic Export Information (EEI) filing to the Automated Export System (AES).

* * * * *

(b) * * *

(3) For all exports of 9x515 or ''600 series'' items enumerated in paragraphs .a through .x of a 9x515 or ''600 series'' ECCN regardless of value or destination, including exports to Canada;

* * * * *

■ 24. Section 758.2 is amended by revising paragraph (b)(4) to read as follows:

§ 758.2 Automated Export System (AES).

* * * * *

(b) * * *

(4) Exports are made under License Exception Strategic Trade Authorization (STA); are made under Authorization Validated End User (VEU); or are of 9x515 or ''600 series'' items.

■ 25. Section 758.6 is amended by revising paragraph (b) to read as follows:

§ 758.6 Destination control statement and other information furnished to consignees.

* * * * *

(b) *Additional Requirement for 9x515 and ''600 series'' items.* In addition to the destination control statement required in paragraph (a), the ECCN for each 9x515 or ''600 series'' item being exported must be printed on the invoice and on the bill of lading, air waybill, or other export control document that accompanies the shipment from its point of origin in the United States to the ultimate consignee or end user abroad.

PART 772—[AMENDED]

■ 26. The authority citation for 15 CFR part 772 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 8, 2013, 78 FR 49107 (August 12, 2013).

■ 27. Section 772.1 is amended by revising the definition for the term ''space-qualified'' to read as follows:

§ 772.1 Definitions of terms as used in the Export Administration Regulations (EAR).

* * * * *

''Space-qualified''. (Cat 3 and 6) Designed, manufactured, or qualified through successful testing, for operation at altitudes greater than 100 km above the surface of the Earth.

Note 1: A determination that a specific item is ''space-qualified'' by virtue of testing does not mean that other items in the same production run or model series are ''space-qualified'' if not individually tested.

Note 2: The terms 'designed' and 'manufactured' in this definition are synonymous with ''specially designed.'' Thus, for example, an item that is ''specially designed'' for a spacecraft is deemed to be 'designed' or 'manufactured' for operation at altitudes greater than 100 km and an item that is not ''specially designed'' for a spacecraft is not deemed to have been so 'designed' or 'manufactured.'

* * * * *

PART 774—[AMENDED]

■ 28. The authority citation for 15 CFR part 774 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* 10 U.S.C. 7420; 10 U.S.C. 7430(e); 22 U.S.C. 287c, 22 U.S.C. 3201 *et seq.;* 22 U.S.C. 6004; 30 U.S.C. 185(s), 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 15 U.S.C. 1824a; 50 U.S.C. app. 5; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 8, 2013, 78 FR 49107 (August 12, 2013).

Supplement No. 1 to Part 774—[Amended]

■ 29. In Supplement No. 1 to Part 774, Category 1, remove and reserve paragraph .b in the Items paragraph of the List of Items Controlled of Export Control Classification Number (ECCN) 1B018, effective November 10, 2014.

■ 30. In Supplement No. 1 to Part 774, Category 3, revise the MT paragraph of the License Requirements section and the Related Controls paragraphs (1) and (2) and add a new sentence to the beginning of the Related Definitions paragraph of Export Control Classification Number (ECCN) 3A001, effective November 10, 2014, to read as follows:

Supplement No. 1 to Part 774—The Commerce Control List

* * * * *

3A001 Electronic ''components'' and ''specially designed'' ''components'' therefor, as follows (see List of Items Controlled).

License Requirements

* * * * *

Controls(s)	*Country chart (See Supp. No. 1 to part 738)*
* * * * *	
MT applies to 3A001.a.1.a for 'microcircuits' ''usable in'' ''missiles'' for protecting ''missiles'' against nuclear effects (e.g. Electromagnetic Pulse (EMP), X-rays, combined blast and thermal effects) and to 3A001.a.5.a when ''designed or modified'' for military use, hermetically sealed and rated for operation in the temperature range from below −54 °C to above +125 °C.	MT Column 1

* * * * *

List of Items Controlled

* * * * *

Related Controls: (1) See Category XV of the USML for certain ''space-qualified'' electronics and Category XI of the USML for certain ASICs ''subject to the ITAR'' (see 22 CFR parts 120 through 130). (2) See

also 3A101, 3A201, 3A991, and 9A515. * * *

* * * * *

Related Definitions: 'Microcircuit' means a device in which a number of passive or active elements are considered as indivisibly associated on or within a continuous structure to perform the function of a circuit. * * *

* * * * *

■ 31. In Supplement No. 1 to Part 774, Category 3, revise the Related Controls paragraph of Export Control Classification Number (ECCN) 3A002, effective November 10, 2014, to read as follows:

3A002 General purpose electronic equipment and ''accessories'' therefor, as follows (see List of Items Controlled).

* * * * *

List of Items Controlled

Related Controls: See Category XV(e)(9) of the USML for certain ''space-qualified'' atomic frequency standards ''subject to the ITAR'' (see 22 CFR parts 120 through 130). See also 3A292, 3A992 and 9A515.x.

* * * * *

■ 32. In Supplement No. 1 to Part 774, Category 3, revise the Related Controls paragraph of Export Control Classification Number (ECCN) 3D001, effective November 10, 2014, to read as follows:

3D001 ''Software'' ''specially designed'' for the ''development'' or ''production'' of ''equipment'' controlled by 3A001.b to 3A002.g or 3B (except 3B991 and 3B992).

* * * * *

List of Items Controlled

Related Controls: ''Software'' ''specially designed'' for the ''development'' or ''production'' of certain ''space-qualified'' atomic frequency standards described in Category XV(e)(9) of the USML is ''subject to the ITAR'' (see 22 CFR parts 120 through 130). See also 3D101 and 9D515.

* * * * *

■ 33. In Supplement No. 1 to Part 774, Category 3, revise the License Exception TSR and Related Controls paragraphs of Export Control Classification Number (ECCN) 3E001, effective November 10, 2014, to read as follows:

3E001 ''Technology'' according to the General Technology Note for the ''development'' or ''production'' of ''equipment'' or ''materials'' controlled by 3A (except 3A292, 3A980, 3A981, 3A991, 3A992, or 3A999), 3B (except 3B991 or 3B992) or 3C (except 3C992).

* * * * *

List Based License Exceptions (See Part 740 for a description of all license exceptions)

* * * * *

TSR: Yes, except N/A for MT, and ''technology'' ''specially designed'' for the ''development'' or ''production'' of: (a) Traveling Wave Tube Amplifiers described in 3A001.b.8, having operating frequencies exceeding 19 GHz; and (b) solar cells, coverglass-interconnect-cells or covered-interconnect-cells (CIC) ''assemblies,'' solar arrays and/or solar panels described in 3A001.e.4.

* * * * *

List of Items Controlled

* * * * *

Related Controls: ''Technology'' according to the General Technology Note for the ''development'' or ''production'' of certain ''space-qualified'' atomic frequency standards described in Category XV(e)(9), MMICs described in Category XV(e)(14), and oscillators described in Category XV(e)(15) of the USML are ''subject to the ITAR'' (see 22 CFR parts 120 through 130). See also 3E101, 3E201 and 9E515.

* * * * *

■ 34. In Supplement No. 1 to Part 774, Category 3, revise the Related Controls paragraph of Export Control Classification Number (ECCN) 3E003, effective November 10, 2014, to read as follows:

3E003 Other ''technology'' for the ''development'' or ''production'' of the following (see List of Items Controlled).

* * * * *

List of Items Controlled

Related Controls: See 3E001 for the ''development'' or ''production'' related to radiation hardening of integrated circuits, including silicon-on-insulation (SOI) ''technology.'' See also USML Category XI for certain ASICs.

* * * * *

■ 35. In Supplement No. 1 to Part 774, Category 5, revise the Related Controls paragraph and remove the second note to Items paragraph (a.3) of Export Control Classification Number (ECCN) 5A001, effective November 10, 2014, to read as follows:

5A001 Telecommunications systems, equipment, ''components'' and ''accessories,'' as follows (see List of Items Controlled).

* * * * *

List of Items Controlled

Related Controls: (1) See USML Category XI for direction-finding ''equipment'' defined in 5A001.e that is ''subject to the ITAR'' (see 22 CFR parts 120 through 130). (2) See also 5A101 and 5A991.

* * * * *

■ 36. In Supplement No. 1 to Part 774, Category 5, revise the Related Controls paragraph of Export Control Classification Number (ECCN) 5A991, effective November 10, 2014, to read as follows:

5A991 Telecommunication equipment, not controlled by 5A001 (see List of Items Controlled).

* * * * *

List of Items Controlled

Related Controls: See also 5E101 and 5E991.

* * * * *

■ 37. In Supplement No. 1 to Part 774, Category 5, revise the Related Controls paragraph of Export Control Classification Number (ECCN) 5E001, effective November 10, 2014, to read as follows:

5E001 ''Technology'' as follows (see List of Items Controlled).

* * * * *

List of Items Controlled

Related Controls: See also 5E101, 5E980 and 5E991.

* * * * *

■ 38. In Supplement No. 1 to Part 774, Category 6, revise the Related Controls paragraph of Export Control Classification Number (ECCN) 6A002, effective November 10, 2014, to read as follows:

6A002 Optical sensors and equipment, and ''components'' therefor, as follows (see List of Items Controlled).

* * * * *

List of Items Controlled

Related Controls: (1) See USML Categories XII and XV for controls on ''image intensifiers'' defined in 6A002.a.2 and ''focal plane arrays'' defined in 6A002.a.3 that are ''subject to the ITAR'' (see 22 CFR parts 120 through 130). (2) See also 6A102, 6A202, and 6A992.

* * * * *

■ 39. In Supplement No. 1 to Part 774, Category 6, revise the Related Controls paragraph of Export Control Classification Number (ECCN) 6A004, effective November 10, 2014, to read as follows:

6A004 Optical equipment, and ''components,'' as follows (see List of Items Controlled).

* * * * *

List of Items Controlled

Related Controls: (1) For optical mirrors or 'aspheric optical elements' ''specially designed'' for lithography ''equipment,'' see ECCN 3B001. (2) See also 6A994.

* * * * *

■ 40. In Supplement No. 1 to Part 774, Category 6, revise the Related Controls paragraph of Export Control Classification Number (ECCN) 6D001, effective November 10, 2014, to read as follows:

6D001 ''Software'' ''specially designed'' for the ''development'' or ''production'' of equipment controlled by 6A004, 6A005, 6A008 or 6B008.

* * * * *

List of Items Controlled

Related Controls: See also 6D991, and ECCN 6E001 (''development'') for ''technology'' for items controlled under this entry.

* * * * *

■ 41. In Supplement No. 1 to Part 774, Category 6, revise the Related Controls paragraph of Export Control Classification Number (ECCN) 6D002, effective November 10, 2014, to read as follows:

6D002 ''Software'' ''specially designed'' for the ''use'' of equipment controlled by 6A002.b, 6A008 or 6B008.

* * * * *

List of Items Controlled

Related Controls: ''Software'' ''specially designed'' for the ''use'' of ''space-qualified'' LIDAR ''equipment'' ''specially designed'' for surveying or for meteorological observation, released from control under the note in 6A008.j, is controlled in 6D991. See also 6D102, 6D991, and 6D992.

* * * * *

■ 42. In Supplement No. 1 to Part 774, Category 6, revise the Related Controls paragraph of Export Control Classification Number (ECCN) 6E001, effective November 10, 2014, to read as follows:

6E001 ''Technology'' according to the General Technology Note for the ''development'' of equipment, materials or ''software'' controlled by 6A (except 6A991, 6A992, 6A994, 6A995, 6A996, 6A997, or 6A998), 6B (except 6B995), 6C (except 6C992 or 6C994), or 6D (except 6D991, 6D992, or 6D993).

* * * * *

List of Items Controlled

Related Controls: See also 6E101, 6E201, and 6E991.

* * * * *

■ 43. In Supplement No. 1 to Part 774, Category 6, revise the Related Controls paragraph of Export Control Classification Number (ECCN) 6E002, effective November 10, 2014, to read as follows:

6E002 ''Technology'' according to the General Technology Note for the ''production'' of equipment or materials controlled by 6A (except 6A991, 6A992, 6A994, 6A995, 6A996, 6A997 or 6A998), 6B (except 6B995) or 6C (except 6C992 or 6C994).

* * * * *

List of Items Controlled

Related Controls: See also 6E992.

* * * * *

■ 44. In Supplement No. 1 to Part 774, Category 7, revise the Related Controls paragraph of Export Control Classification Number (ECCN) 7A004, effective November 10, 2014, to read as follows:

7A004 'Star trackers' and ''components'' therefor, as follows (see List of Items Controlled).

* * * * *

List of Items Controlled

Related Controls: (1) See USML Category XV for certain 'star trackers' that are ''subject to the ITAR'' (see 22 CFR parts 120 through 130). (2) See also 7A104 and 7A994.

* * * * *

■ 45. In Supplement No. 1 to Part 774, Category 7, revise the Related Controls paragraph of Export Control Classification Number (ECCN) 7A104, effective November 10, 2014, to read as follows:

7A104 Gyro-astro compasses and other devices, other than those controlled by 7A004, which derive position or orientation by means of automatically tracking celestial bodies or satellites and ''specially designed'' ''parts'' and ''components'' therefor.

* * * * *

List of Items Controlled

Related Controls: (1) See USML Categories IV and XV for certain 'star trackers' that are ''subject to the ITAR'' (see 22 CFR parts 120 through 130). (2) This entry controls ''specially designed'' ''parts'' and ''components'' for gyro-astro compasses and other devices controlled by 7A004.

* * * * *

■ 46. In Supplement No. 1 to Part 774, Category 7, revise Export Control Classification Number (ECCN) 7A105, including the heading, effective November 10, 2014, to read as follows:

7A105 Receiving equipment for Global Navigation Satellite Systems (GNSS) (e.g., GPS, GLONASS, or Galileo) designed or modified for airborne applications and capable of providing navigation information at speeds in excess of 600 m/s (1,165 nautical mph), and ''specially designed'' ''parts'' and ''components'' therefor.

License Requirements

Reason for Control: MT, AT

Control(s)	*Country chart*
MT applies to entire entry.	MT Column 1
AT applies to entire entry.	AT Column 1

List Based License Exceptions (See Part 740 for a description of all license exceptions)

LVS: N/A
GBS: N/A
CIV: N/A

List of Items Controlled

Related Controls: (1) See also 7A005 and 7A994. (2) See Categories XI and XV of the U.S. Munitions List (22 CFR 121.1) for controls on similar equipment ''specially designed'' for defense articles.

Related Definitions: N/A

Items: The list of items controlled is contained in the ECCN heading.

■ 47. In Supplement No. 1 to Part 774, Category 9, revise the List of Items Controlled paragraph of Export Control Classification Number (ECCN) 9A004, effective November 10, 2014, to read as follows:

9A004 Space launch vehicles and ''spacecraft,'' as follows (see List of Items Controlled).

* * * * *

List of Items Controlled

Related Controls: (1) See also 9A104, 9A515, and 9B515. (2) See ECCNs 9E001 (''development'') and 9E002 (''production'') for technology for items controlled by this entry. (3) See USML Categories IV and XV for the space launch vehicles and other spacecraft that are ''subject to the ITAR'' (see 22 CFR parts 120 through 130).

Related Definitions: N/A

Items:

a. The International Space Station being developed, launched, and operated under the supervision of the U.S. National Aeronautics and Space Administration.

b. through w. [RESERVED]

x. ''Parts,'' ''components,'' ''accessories'' and ''attachments'' that are ''specially designed'' for the International Space Station.

* * * * *

■ 48. In Supplement No. 1 to Part 774, between the entries for ECCNs 9A120 and 9A610, add new entry for ECCN 9A515 to read as follows:

9A515 ''Spacecraft'' and related commodities, as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, RS, MT, AT

Control(s)	*Country chart*
NS applies to entire entry, except .e.	NS Column 1
RS applies to entire entry, except .e.	RS Column 1
RS applies to 9A515.e.	RS Column 2
MT applies to 9A515.d when ''usable in'' ''missiles'' for protecting ''missiles'' against nuclear effects (e.g. Electromagnetic Pulse (EMP), X-rays, combined blast and thermal effects).	MT Column 1
AT applies to entire entry.	AT Column 1

List Based License Exceptions (See Part 740 for a description of all license exceptions)

LVS: $1500

GBS: N/A
CIV: N/A

Special Conditions for STA

STA: Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2) of the EAR) may not be used for any item in 9A515.

List of Items Controlled

Related Controls: N/A
Related Definitions: N/A
Items:

a. [RESERVED]
b. [RESERVED]
c. [RESERVED]
d. Microelectronic circuits (e.g., integrated circuits and micro-circuits) rated, certified, or otherwise specified or described as meeting or exceeding all the following characteristics and that are ''specially designed'' for defense articles, ''600 series'' items, or items controlled by 9A515:
d.1. A total dose of 5×10^5 Rads (Si) (5×10^3 Gy (Si));
d.2. A dose rate upset threshold of 5×10^8 Rads (Si)/sec (5×10^6 Gy (Si)/sec);
d.3. A neutron dose of 1×10^{14} n/cm^2 (1 MeV equivalent);
d.4. An uncorrected single event upset sensitivity of 1×10^{-10} errors/bit/day or less, for the CREME–MC geosynchronous orbit, Solar Minimum Environment for heavy ion flux; and
d.5. An uncorrected single event upset sensitivity of 1×10^{-3} errors/part or less for a fluence of 1×10^7 protons/cm^2 for proton energy greater than 50 MeV.
e. Microelectronic circuits (e.g., integrated circuits and micro-circuits) that are rated, certified, or otherwise specified or described as meeting or exceeding all the following characteristics and that are ''specially designed'' for defense articles controlled by USML Category XV or items controlled by 9A515:
e.1. A total dose $\geq 1 \times 10^5$ Rads (Si) (1×10^3 Gy(Si)) and $<5 \times 10^5$ Rads (Si) (5×10^3 Gy(Si)); and
e.2. A single event effect (SEE) (i.e., single event latchup (SEL), single event burnout (SEB), or single event gate rupture (SEGR)) immunity to a linear energy transfer (LET) $\geq$80 MeV-cm^2/mg.

Note 1 to 9A515.d and .e: Application specific integrated circuits (ASICs), integrated circuits developed and produced for a specific application or function, ''specially designed'' for defense articles are controlled by Category XI(c) of the USML regardless of characteristics.

Note 2 to 9A515.d and .e: See 3A001.a for controls on radiation-hardened microelectronic circuits ''subject to the EAR'' that are not controlled by 9A515.d or 9A515.e.

f. through y. [RESERVED]

■ 49. In Supplement No. 1 to Part 774, Category 9, revise Export Control Classification Number (ECCN) 9A515, effective November 10, 2014, to read as follows:

9A515 ''Spacecraft'' and related commodities, as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, RS, MT, AT

Control(s)	*Country chart*
NS applies to entire entry, except .e and .y.	NS Column 1
RS applies to entire entry, except .e and .y.	RS Column 1
RS applies to 9A515.e.	RS Column 2
MT applies to 9A515.d when ''usable in'' ''missiles'' for protecting ''missiles'' against nuclear effects (e.g. Electromagnetic Pulse (EMP), X-rays, combined blast and thermal effects).	MT Column 1
AT applies to entire entry.	AT Column 1

List Based License Exceptions (See Part 740 for a description of all license exceptions)

LVS: $1500
GBS: N/A
CIV: N/A

Special Conditions for STA

STA: (1) Paragraph (c)(1) of License Exception STA (§ 740.20(c)(1) of the EAR) may not be used for ''spacecraft'' in 9A515.a that provide space-based logistics, assembly or servicing of any spacecraft (*e.g.,* refueling), unless determined by BIS to be eligible for License Exception STA in accordance with § 740.20(g) (License Exception STA eligibility requests for certain ''500 series'' and ''600 series'' end items). (2) Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2) of the EAR) may not be used for any item in 9A515.

List of Items Controlled

Related Controls: Spacecraft, launch vehicles and related articles that are enumerated in the USML, and technical data (including ''software'') directly related thereto, and all services (including training) directly related to the integration of any satellite or spacecraft to a launch vehicle, including both planning and onsite support, or furnishing any assistance (including training) in the launch failure analysis or investigation for items in 9A515.a, are ''subject to the ITAR.'' All other ''spacecraft,'' as enumerated below and defined in section 772.1, are subject to the controls of this ECCN. See also ECCNs 3A001, 3A002, 3A991, 3A992, 6A002, 6A004, 6A008, and 6A998 for specific ''space-qualified'' items, 7A004 and 7A104 for star trackers, and 9A004 for the International Space Station and specially designed part and components therefor. See USML Category XI(c) for controls on microwave monolithic integrated circuits (MMICs) that are ''specially designed'' for defense articles.
Related Definitions: N/A
Items:

''Spacecraft'' and other items described in ECCN 9A515 remain subject to the EAR even if exported, reexported, or transferred (in-country) with defense articles ''subject to the ITAR'' integrated into and included therein as integral parts of the item. In all other cases, such defense articles are subject to the ITAR. For example, a 9A515.a ''spacecraft'' remains ''subject to the EAR'' even when it is exported, reexported, or transferred (in-country) with a ''hosted payload'' described in USML Category XV(e)(17) incorporated therein. In all other cases, a ''hosted payload'' performing a function described in USML Category XV(a) always remains a USML item.

a. ''Spacecraft,'' including satellites, and space vehicles, whether designated developmental, experimental, research or scientific, not enumerated in USML Category XV or described in 9A004.

Note: *ECCN 9A515.a includes commercial communications satellites, remote sensing satellites not identified in USML Category XV(a), planetary rovers, planetary and interplanetary probes, and in-space habitats.*

b. Ground control systems and training simulators ''specially designed'' for telemetry, tracking, and control of the ''spacecraft'' controlled in paragraph 9A515.a.
c. [RESERVED]
d. Microelectronic circuits (e.g., integrated circuits and micro-circuits) rated, certified, or otherwise specified or described as meeting or exceeding all the following characteristics and that are ''specially designed'' for defense articles, ''600 series'' items, or items controlled by 9A515:
d.1. A total dose of 5×10^5 Rads (Si) (5×10^3 Gy (Si));
d.2. A dose rate upset threshold of 5×10^8 Rads (Si)/sec (5×10^6 Gy (Si)/sec);
d.3. A neutron dose of 1×10^{14} n/cm^2 (1 MeV equivalent);
d.4. An uncorrected single event upset sensitivity of 1×10^{-10} errors/bit/day or less, for the CREME–MC geosynchronous orbit, Solar Minimum Environment for heavy ion flux; and
d.5. An uncorrected single event upset sensitivity of 1×10^{-3} errors/part or less for a fluence of 1×10^7 protons/cm^2 for proton energy greater than 50 MeV.
e. Microelectronic circuits (e.g., integrated circuits and micro-circuits) that are rated, certified, or otherwise specified or described as meeting or exceeding all the following characteristics and that are ''specially designed'' for defense articles controlled by USML Category XV or items controlled by 9A515:
e.1. A total dose $\geq 1 \times 10^5$ Rads (Si) (1×10^3 Gy(Si)) and $<5 \times 10^5$ Rads (Si) (5×10^3 Gy(Si)); and
e.2. A single event effect (SEE) (i.e., single event latchup (SEL), single event burnout (SEB), or single event gate rupture (SEGR)) immunity to a linear energy transfer (LET) $\geq$80 MeV-cm^2/mg.

Note 1 to 9A515.d and .e: *Application specific integrated circuits (ASICs), integrated circuits developed and produced for a specific application or function, specifically designed or modified for defense articles and not in normal commercial use*

are controlled by Category XI(c) of the USML regardless of characteristics.

Note 2 to 9A515.d and .e: See 3A001.a for controls on radiation-hardened microelectronic circuits ''subject to the EAR'' that are not controlled by 9A515.d or 9A515.e.

f. through w. [RESERVED]

x. ''Parts,'' ''components,'' ''accessories'' and ''attachments'' that are ''specially designed'' for defense articles controlled by USML Category XV or items controlled by 9A515, and that are NOT:

1. Enumerated or controlled in the USML or elsewhere within ECCN 9A515;
2. Microelectronic circuits;
3. Described in 7A004 or 7A104; or
4. Described in an ECCN containing ''space-qualified'' as a control criterion (i.e., 3A001.b.1, 3A001.e.4, 3A002.a.3, 3A002.g.1, 3A991.o, 3A992.b.3, 6A002.a.1, 6A002.b.2, 6A002.d.1, 6A004.c and .d, 6A008.j.1, or 6A998.b).

Note to 9A515.x: *''Parts,'' ''components,'' ''accessories,'' and ''attachments'' specified in USML subcategory XV(e) or enumerated in other USML categories are subject to the controls of that paragraph or category.*

y. Items that would otherwise be within the scope of ECCN 9A515.x but that have been identified in an interagency-cleared commodity classification (CCATS) pursuant to § 748.3(e) as warranting control in 9A515.y.

■ 50. In Supplement No. 1 to Part 774, between the entries for ECCNs 9B117 and 9B610, add new entry for ECCN 9B515, effective November 10, 2014, to read as follows:

9B515 Test, inspection, and production ''equipment'' ''specially designed'' for ''spacecraft'' and related commodities, as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, RS, AT

Control(s)	*Country chart*
NS applies to entire entry.	NS Column 1
RS applies to entire entry.	RS Column 1
AT applies to entire entry.	AT Column 1

List Based License Exceptions (See Part 740 for a description of all license exceptions)

LVS: $1500; $5000 for 9B515.b
GBS: N/A
CIV: N/A

Special Conditions for STA

STA: Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2) of the EAR) may not be used for any item in 9B515.

List of Items Controlled

Related Controls: N/A
Related Definitions: N/A
Items:

a. Test, inspection, and production ''equipment'' ''specially designed'' for the ''production'' or ''development'' of commodities enumerated in ECCN 9A515.a, or USML Category XV(a) or XV(e).

Note: ECCN 9B515.a includes equipment, cells, and stands ''specially designed'' for the analysis or isolation of faults in commodities enumerated in ECCN 9A515.a or USML Category XV(a) or XV(e).

b. Environmental test chambers capable of pressures below (10^{-4}) Torr, and ''specially designed'' for commodities enumerated in 9A515.a or USML Category XV(a).

■ 51. In Supplement No. 1 to Part 774, between the entries for ECCNs 9D105 and 9D610, add a new entry for ECCN 9D515 to read as follows:

9D515 ''Software'' ''specially designed'' for the ''development,'' ''production'' operation, installation, maintenance, repair, overhaul, or refurbishing of ''spacecraft'' and related commodities, as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, RS, AT

Control(s)	*Country chart*
NS applies to entire entry.	NS Column 1
RS applies to entire entry.	RS Column 1
AT applies to entire entry.	AT Column 1

List Based License Exceptions (See Part 740 for a description of all license exceptions)

CIV: N/A
TSR: N/A

Special Conditions for STA

STA: (1) Paragraph (c)(1) of License Exception STA (§ 740.20(c)(1) of the EAR) may not be used for 9D515.d or .e (2) Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2) of the EAR) may not be used for any ''software'' in 9D515.

List of Items Controlled

Related Controls: ''Software'' directly related to articles enumerated in USML Category XV is subject to the control of USML paragraph XV(f).
Related Definitions: N/A
Items:

a. [RESERVED]
b. [RESERVED]
c. [RESERVED]
d. ''Software'' ''specially designed'' for the ''development,'' ''production,'' operation, failure analysis or anomaly resolution of commodities controlled by ECCN 9A515.d.
e. ''Software'' ''specially designed'' for the ''development,'' ''production,'' operation, failure analysis or anomaly resolution of commodities controlled by ECCN 9A515.e.

■ 52. In Supplement No. 1 to Part 774, revise Export Control Classification Number (ECCN) 9D515, effective November 10, 2014, to read as follows:

9D515 ''Software'' ''specially designed'' for the ''development,'' ''production,'' operation, installation, maintenance, repair, overhaul, or refurbishing of ''spacecraft'' and related commodities, as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, RS, AT

Control(s)	*Country chart*
NS applies to entire entry.	NS Column 1
RS applies to entire entry.	RS Column 1
AT applies to entire entry.	AT Column 1

List Based License Exceptions (See Part 740 for a description of all license exceptions)

CIV: N/A
TSR: N/A

Special Conditions for STA

STA: (1) Paragraph (c)(1) of License Exception STA (§ 740.20(c)(1) of the EAR) may not be used for 9D515.b, .d, or .e. (2) Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2) of the EAR) may not be used for any ''software'' in 9D515.

List of Items Controlled

Related Controls: ''Software'' directly related to articles enumerated in USML Category XV is subject to the control of USML paragraph XV(f). See also ECCNs 3D001, 6D001, 6D002, and 6D991 for controls of specific software ''specially designed'' for certain ''space-qualified'' items.
Related Definitions: N/A
Items:

a. ''Software'' (other than ''software'' controlled in paragraphs .b, .d, or .e of this entry) ''specially designed'' for the ''development,'' ''production,'' operation, installation, maintenance, repair, overhaul, or refurbishing of commodities controlled by ECCN 9A515 (except 9A515.d or .e) or 9B515.

b. ''Source code'' that:

b.1. Contains the algorithms or control principles (e.g., for clock management), precise orbit determination (e.g., for ephemeris or pseudo range analysis), signal construct (e.g., pseudo-random noise (PRN) anti-spoofing) ''specially designed'' for items controlled by ECCN 9A515;

b.2. Is ''specially designed'' for the integration, operation, or control of items controlled by ECCN 9A515;

b.3. Contains algorithms or modules ''specially designed'' for system, subsystem, component, part, or accessory calibration, manipulation, or control of items controlled by ECCN 9A515;

b.4. Is ''specially designed'' for data assemblage, extrapolation, or manipulation of items controlled by ECCN 9A515;

b.5. Contains the algorithms or control laws ''specially designed'' for attitude, position, or flight control of items controlled in ECCN 9A515; or

b.6. Is ''specially designed'' for built-in test and diagnostics for items controlled by ECCN 9A515.

c. [RESERVED]
d. ''Software'' ''specially designed'' for the ''development,'' ''production,'' operation, failure analysis or anomaly resolution of commodities controlled by ECCN 9A515.d.
e. ''Software'' ''specially designed'' for the ''development,'' ''production,'' operation,

failure analysis or anomaly resolution of commodities controlled by ECCN 9A515.e.

■ 53. In Supplement No. 1 to Part 774, between the entries for ECCNs 9E102 and 9E610, add new entry for ECCN 9E515 to read as follows:

9E515 "Technology" "required" for the "development," "production," operation, installation, repair, overhaul, or refurbishing of "spacecraft" and related commodities, as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, MT, RS, AT

Control(s)	*Country chart*
NS applies to entire entry.	NS Column 1
MT applies to technology for items in 9A515.d controlled for MT reasons.	MT Column 1
RS applies to entire entry.	RS Column 1
AT applies to entire entry.	AT Column 1

List Based License Exceptions (See Part 740 for a description of all license exceptions)

CIV: N/A
TSR: N/A

Special Conditions for STA

STA: (1) Paragraph (c)(1) of License Exception STA (§ 740.20(c)(1) of the EAR) may not be used for 9E515.d or .e. (2) Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2) of the EAR) may not be used for any "technology" in 9E515.

List of Items Controlled

Related Controls: Technical data directly related to articles enumerated in USML Category XV are subject to the control of USML paragraph XV(f).
Related Definitions: N/A
Items:

a. [RESERVED]
b. [RESERVED]
c. [RESERVED]
d. "Technology" "required" for the "development," "production," operation, failure analysis or anomaly resolution of commodities controlled by ECCN 9A515.d.
e. "Technology" "required" for the "development," "production," failure analysis or anomaly resolution of commodities controlled by ECCN 9A515.e.

■ 54. In Supplement No. 1 to Part 774, revise Export Control Classification Number (ECCN) 9E515, effective November 10, 2014, to read as follows:

9E515 "Technology" "required" for the "development," "production," operation, installation, repair, overhaul, or refurbishing of "spacecraft" and related commodities, as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, MT, RS, AT

Control(s)	*Country chart*
NS applies to entire entry.	NS Column 1
MT applies to technology for items in 9A515.d controlled for MT reasons.	MT Column 1
RS applies to entire entry.	RS Column 1
AT applies to entire entry.	AT Column 1

License Exceptions

CIV: N/A
TSR: N/A

Special Conditions for STA

STA: (1) Paragraph (c)(1) of License Exception STA (§ 740.20(c)(1) of the EAR) may not be used for 9E515.b, .d or .e. (2) Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2) of the EAR) may not be used for any "technology" in 9E515.

List of Items Controlled

Related Controls: Technical data directly related to articles enumerated in USML Category XV are subject to the control of USML paragraph XV(f). See also ECCNs 3E001, 3E003, 6E001, and 6E002 for specific "space-qualified" items. See 9E001 and 9E002 for technology for the International Space Station and "parts," "components," "accessories," and "attachments" "specially designed" therefor. See USML category XV(f) for controls on technical data and defense services related to launch vehicle integration.
Related Definitions: N/A
Items:

a. "Technology" "required" for the "development," "production," installation, repair (including on-orbit anomaly resolution and analysis beyond established procedures), overhaul or refurbishing of commodities controlled by ECCN 9A515 (except 9A515.b, .d, or .e), 9B515, or "software" controlled by 9D515.a.
b. "Technology" "required" for the "development," "production," failure analysis or anomaly resolution of software controlled by ECCN 9D515.b.
c. [RESERVED]
d. "Technology" "required" for the "development," "production," operation, failure analysis or anomaly resolution of commodities controlled by ECCN 9A515.d.
e. "Technology" "required" for the "development," "production," failure analysis or anomaly resolution of commodities controlled by ECCN 9A515.e.

Note 1: [RESERVED]

Note 2: *Activities and technology/technical data directly related to or required for the spaceflight (e.g., sub-orbital, orbital, lunar, interplanetary, or otherwise beyond Earth orbit) passenger or participant experience, regardless of whether the passenger or participant experience is for space tourism, scientific or commercial research, commercial manufacturing/production activities, educational, media, or commercial transportation purposes, are not subject to the ITAR or the EAR. Such activities and technology/technical data include those directly related to or required for:*

(i) "spacecraft" access, ingress, and egress, including the operation of all "spacecraft" doors, hatches, and airlocks;
(ii) physiological training (e.g., human-rated centrifuge training or parabolic flights, pressure suit or spacesuit training/operation);
(iii) medical evaluation or assessment of the spaceflight passenger or participant;
(iv) training for and operation by the passenger or participant of health and safety related hardware (e.g., seating, environmental control and life support, hygiene facilities, food preparation, exercise equipment, fire suppression, communications equipment, safety-related clothing or headgear) or emergency procedures;
(v) viewing of the interior and exterior of the spacecraft or terrestrial mock-ups;
(vi) observing "spacecraft" operations (e.g., pre-flight checks, landing, in-flight status);
(vii) training in "spacecraft" or terrestrial mock-ups for connecting to or operating passenger or participant equipment used for purposes other than operating the "spacecraft"; or
(viii) donning, wearing or utilizing the passenger's or participant's flight suit, pressure suit or spacesuit, and personal equipment.

Note 3 to 9E515: *Neither USML Category XV(f) nor ECCN 9E515 control the data transmitted to or from a satellite or "spacecraft," whether real or simulated, when limited to information about the health, operational status, or measurements or function of, or raw sensor output from, the "spacecraft," "spacecraft" payload(s), or its associated subsystems or components. Such information is not within the scope of information captured within the definition of "technology" in the EAR. Examples of such information, which are commonly referred to as "housekeeping data," include (i) system, hardware, component configuration, and operation status information pertaining to temperatures, pressures, power, currents, voltages, and battery charges; (ii) "spacecraft" or payload orientation or position information, such as state vector or ephemeris information; (iii) payload raw mission or science output, such as images, spectra, particle measurements, or field measurements; (iv) command responses; (v) accurate timing information; and (vi) link budget data. The act of processing such telemetry data—i.e., converting raw data into engineering units or readable products—or encrypting it does not, in and of itself, cause the telemetry data to become subject to the ITAR or to ECCN 9E515. All classified technical data directly related to items controlled in USML Category XV or ECCNs 9A515, and defense services using the*

classified technical data remains subject to the ITAR. This note does not affect controls in USML VX(f), ECCN 9D515, or ECCN 9E515 on software source code or commands that control a ''spacecraft,'' payload, or associated subsystems.

■ 55. In Supplement No. 4 to Part 774, revise paragraph (a)(3), the introductory text of paragraph (a)(4), and the first sentence of paragraph (a)(5), to read as follows:

Supplement No. 4 to Part 774—Commerce Control List Order of Review

(a) * * *

(3) Step 3. The ''600 series'' describes military items that were once subject to the ITAR. The 9x515 ECCNs describe ''spacecraft,'' related items, and some radiation-hardened microelectronic circuits that were once subject to the ITAR under USML Category XV. Just as the ITAR effectively trumps the EAR, items described in a 9x515 ECCN or ''600 series'' ECCN trump other ECCNs on the CCL. Thus, the next step in conducting a classification analysis of an item ''subject to the EAR'' is to determine whether it is described in a 9x515 ECCN or ''600 series'' ECCN paragraph other than a ''catch-all'' paragraph such as a ''.x'' paragraph that controls unspecified ''parts'' and ''components'' ''specially designed'' for items in that ECCN or the corresponding USML paragraph. If so, the item is classified under that 9x515 ECCN or ''600 series'' ECCN paragraph even if it would also be described in another ECCN.

(4) Step 4. If the item is not described in a 9x515 ECCN or ''600 series'' ECCN, then determine whether the item is classified under a 9x515 ECCN or ''600 series'' catch-all paragraph, i.e., one that controls non-specific ''parts,'' ''components,'' ''accessories,'' and ''attachments'' ''specially designed'' for items in that ECCN or the corresponding USML paragraph. Such items are generally in the ''.x'' paragraph of ECCN 9A515 or a ''600 series'' ECCN. * * *

(5) Step 5. If an item is not classified by a ''600 series'' or in a 9x515 ECCN, then starting from the beginning of the product group analyze each ECCN to determine whether any other ECCN in that product group describes the item. * * *

* * * * *

Dated: May 7, 2014.

Kevin J. Wolf,

Assistant Secretary of Commerce for Export Administration.

[FR Doc. 2014–10807 Filed 5–12–14; 8:45 am]

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Part IV

Environmental Protection Agency

40 CFR Part 51

Data Requirements Rule for the 1-Hour Sulfur Dioxide (SO_2) Primary National Ambient Air Quality Standard (NAAQS); Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 51

[EPA–HQ–OAR–2013–0711; FRL–9903–61–OAR]

RIN 2060–AR19

Data Requirements Rule for the 1-Hour Sulfur Dioxide (SO_2) Primary National Ambient Air Quality Standard (NAAQS)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing a rule directing state and tribal air agencies (air agencies) to provide data to characterize current air quality in areas with large sources of sulfur dioxide (SO_2) emissions if such areas do not have sufficient air quality monitoring in place to identify maximum 1-hour SO_2 concentrations. The proposed rule describes criteria for identifying the sources around which air agencies would need to characterize SO_2 air quality. It also describes a process and timetables by which air agencies would characterize air quality around sources through ambient monitoring and/or air quality modeling techniques and submit such data to the EPA. The EPA has issued separate non-binding draft technical assistance documents on how air agencies can conduct such monitoring or modeling. The air quality data developed by the states in accordance with this rulemaking would be used by the EPA in future rounds of area designations for the 1-hour SO_2 National Ambient Air Quality Standards (NAAQS).

DATES:

Comments. Comments must be received on or before July 14, 2014.

Information Collection Request. Under the Paperwork Reduction Act, comments on the information collection provisions must be received by the Office of Management and Budget (OMB) on or before July 14, 2014.

Public Hearings. If anyone contacts the EPA requesting the opportunity to speak at a public hearing concerning the proposed regulation by May 23, 2014, the EPA will hold a public hearing approximately 30 days after publication of this proposed regulation in the **Federal Register**. Additional information about the hearing would be published in a subsequent **Federal Register** notice.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2013–0711, by one of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *Email: a-and-r-docket@epa.gov.*
- *Mail:* Attention Docket ID No. EPA–HQ–OAR–2013–0711, U.S. Environmental Protection Agency, 1301 Constitution Ave. NW., Washington, DC 20460. Mail Code: 2822T. Please include two copies if possible. In addition, please mail a copy of your comments on the information collection provisions to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attn: Desk Officer for the EPA, 725 17th St. NW., Washington, DC 20503.
- *Hand Delivery:* U.S. Environmental Protection Agency, EPA West (Air Docket), William Jefferson Clinton West Building, 1301 Constitution Avenue Northwest, Room 3334, Washington, DC 20004, Attention Docket ID No. EPA–HQ–OAR–2013–0711, EPA Headquarters Library, The EPA/DC Public Reading Room is open from 8:30 a.m. to 4:30 p.m. Eastern Standard Time (EST), Monday through Friday, Air and Radiation Docket and Information Center.

Instructions. Direct your comments to Docket ID No. EPA–HQ–OAR–2013–0711. The EPA's policy is that all comments received will be included in the public docket without change and may be made available on-line at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any CD you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption and be free of any defects or viruses. For additional information about the EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.* For additional instructions on submitting comments, go to the **SUPPLEMENTARY INFORMATION** section of this document.

Docket. All documents in the docket are listed in *www.regulations.gov.* Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Air and Radiation Docket and Information Center in the EPA Headquarters Library, Room Number 3334 in the William Jefferson Clinton West Building, located at 1301 Constitution Ave. NW., Washington, DC The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744.

FOR FURTHER INFORMATION CONTACT: For further general information on this rulemaking, contact Mr. Rich Damberg, Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, by phone at (919) 54l-5592, or by email at *damberg.rich@epa.gov;* or Ms. Rhonda Wright, Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, by phone at (919) 54l-1087, or by email at *wright.rhonda@epa.gov.* To request a public hearing or information pertaining to a public hearing on this document, contact Ms. Pamela Long, Air Quality Policy Division, Office of Air Quality Planning and Standards (C504–01), Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number (919) 541–0641; fax number (919) 541–5509; email address: *long.pam@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

Entities potentially affected directly by this proposal include state, local and tribal governments. Entities potentially affected indirectly by this proposal include owners and operators of sources of SO_2 emissions (such as coal-fired power plants, refineries, smelters, pulp and paper related facilities, chemical

manufacturing and facilities with industrial boilers for power generation) that contribute to ambient SO_2 concentrations, as well as people whose air quality is affected by these facilities.

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

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

2. Tips for Preparing Your Comments. When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

C. Where can I get a copy of this document and other related information?

In addition to being available in the docket, an electronic copy of this notice will be posted at *http://www.epa.gov/air/sulfurdioxide/implement.html.*

D. What information should I know about possible public hearings?

To request a public hearing or information pertaining to a public hearing on this document, contact Ms. Pamela Long, Air Quality Policy Division, Office of Air Quality Planning and Standards (C504–03), Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number (919) 541–0641; fax number (919) 541–5509; email address: *long.pam@epa.gov.*

E. How is this document organized?

The information presented in this document is organized as follows:

I. General Information
A. Does this action apply to me?
B. What should I consider as I prepare my comments for the EPA?
C. Where can I get a copy of this document and other related information?
D. What information should I know about possible public hearings?
E. How is this document organized?
II. Background for Proposal
A. The 2010 SO_2 NAAQS
B. The Area Designations Process
C. History of Designations for the SO_2 NAAQS
D. Use of Air Quality Modeling Information in Area Designations for the SO_2 NAAQS
E. SO_2 NAAQS Preamble: Suggested Implementation Approach
F. The EPA White Paper and Stakeholder Input
G. The EPA's February 2013 SO_2 Implementation Strategy Paper
III. Source Coverage and Emission Threshold Options
A. Background
B. Proposed Source Emission Threshold Options
IV. Data Requirements and Program Implementation Timeline
A. From Promulgation of This Rulemaking to January 15, 2016: Air Agency and the EPA Regional Office Consult on List of SO_2 Sources; Air Agency is Required To Submit its List of Sources Along With Its Election of Monitoring or Modeling for Characterizing Air Quality to the EPA Regional Administrator
B. January 15, 2016: Air Agency Is Required To Submit Modeling Protocols for Sources That Will Be Characterized With Modeling
C. July 2016: Annual Monitoring Network Plans Due to the EPA Regional Administrator Should Include SO_2 Monitoring Network Modifications Intended To Satisfy the Data Requirements Rule
D. January 1, 2017: SO_2 Monitors Intended To Satisfy the Data Requirements Rule Are Required To Be Operational
E. January 13, 2017: States Electing To Model Are Required To Provide Modeling Analyses to the EPA Regional Administrators
F. By August 2017: Expected Date by Which the EPA Would Notify States of Intended Designations
G. December 2017: Intended Date by Which the EPA Would Issue Final Designations for a Majority of the Country
H. August 2019: Anticipated Due Date for State Attainment Plans for Areas Designated Nonattainment in 2017
I. May 2020: Required Certification of 2019 Monitoring Data; States Have the Opportunity To Provide Updated State Recommendations to the EPA Regional Administrators
J. August 2020: Expected Date by Which the EPA Would Notify States of Intended Designations for the Remainder of the Country Not Yet Designated
K. December 2020: Intended Date by Which the EPA Would Issue Final Designations for the Remainder of the Country
L. August 2022: Anticipated Due Date for State Attainment Plans for Areas Designated Nonattainment in 2020
V. Technical Considerations
A. Monitoring
B. Modeling
VI. Statutory and Executive Order Reviews
A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review
B. Paperwork Reduction Act
C. Regulatory Flexibility Act
D. Unfunded Mandates Reform Act
E. Executive Order 13132: Federalism
F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks
H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
I. National Technology Transfer and Advancement Act
J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations
Statutory Authority
List of Subjects

II. Background for Proposal

A. The 2010 SO_2 NAAQS

On June 2, 2010, the EPA Administrator signed a final rule that revised the primary SO_2 NAAQS under section 109 of the Clean Air Act (CAA or Act) to provide requisite protection of public health with an adequate margin of safety (75 FR 35520, June 22, 2010). Specifically, the EPA promulgated a new 1-hour daily maximum primary SO_2 standard at a level of 75 parts per billion, based on the 3-year average of the annual 99th percentile of 1-hour

daily maximum concentrations.[1] The revised SO_2 NAAQS will improve public health protection, especially for children, the elderly and people with asthma. These individuals are more susceptible to the health problems associated with breathing SO_2 than individuals from the general population.

The reaction of SO_2 with other pollutants in the atmosphere and the resulting long-range contribution of SO_2 to regional air pollution problems such as fine particle formation and acidic deposition are well-understood effects of SO_2 emissions. However, SO_2 as a directly emitted pollutant can also cause relatively localized health impacts. For example, in previous guidance, the EPA has indicated a general guideline that the distance between a source and the maximum ground level concentration of SO_2 is generally 10 times the stack height in flat terrain.[2] This means that maximum concentrations can be expected to be observed within 1–2 miles of some large power plants and other facilities. It is important to recognize, however, that conditions such as unique terrain features and associated meteorological conditions can impact the location and magnitudes of significant concentration gradients.

The SO_2 standard was established with a 1-hour averaging time particularly to protect sensitive individuals from respiratory effects associated with short-term exposures to SO_2. Thus, from an air quality management perspective, the SO_2 NAAQS can be considered to be a largely ''source-oriented'' NAAQS rather than a ''regional'' one (i.e., more similar to the lead NAAQS than to the ozone NAAQS). Strategies to attain the SO_2 NAAQS are expected to be focused on key point sources. The largest sources of SO_2 include coal-fired electric utilities, industrial boilers, refineries, pulp and paper-related industries and chemical manufacturing.

B. The Area Designations Process

When a NAAQS is revised, CAA provisions trigger various actions and implementation responsibilities for air agencies[3] and the EPA. Two important milestones are: (1) The area designations process under CAA section 107 and subsequent nonattainment area plan development under CAA sections 172 and 191–192, and (2) submittal of ''infrastructure'' plans by air agencies within 3 years of NAAQS promulgation under section 110(a)(1)–(2) of the CAA.

The area designations process typically relies on air quality concentrations characterized by ambient monitoring data collected by the air agency to identify areas that are either meeting or violating the relevant standard. Air agencies are required to provide the EPA with area recommendations and supporting technical information within 1 year after a standard is revised. The EPA considers this information and commonly sends a letter to the air agency (at least 120 days prior to finalizing the designation) that describes its intended designation and boundaries of the nonattainment areas and other areas in the state.

During this 120-day period, the air agency has the opportunity to demonstrate why an EPA-intended modification to its recommendation would be inappropriate. The EPA then finalizes the area designations process by sending letters to each governor and publishing the NAAQS designations for each state (and tribal area, as appropriate) in the **Federal Register**. The final designations are listed in 40 CFR part 81.

Once an area is designated as nonattainment for the SO_2 NAAQS, CAA section 191 directs the air agency to submit to the EPA within 18 months of designation a NAAQS attainment plan that demonstrates, typically through air quality dispersion modeling, how the area would attain the standard as expeditiously as practicable, but no later than 5 years after designation as provided by section 192. CAA section 172 lists additional elements that NAAQS attainment plans are to contain. The air quality modeling for an attainment demonstration needs to ensure that the area would attain even if all contributing sources emitted at ''permitted allowable'' levels. The specifications of attainment demonstration modeling techniques are described in 40 CFR part 50, Appendix W.

C. History of Designations for the SO_2 NAAQS

The original SO_2 NAAQS[4] were established in 1971, and the EPA originally designated nonattainment areas for the prior SO_2 NAAQS in March 1978.[5] The **Federal Register** final rule for this action noted that certain areas were designated on the basis of modeling data: ''In the absence of sufficient monitored air quality data, other evaluation methods were used, including air quality dispersion modeling.'' In a September 11, 1978, supplement to the March 3, 1978, final rule, the EPA responded to commenters and upheld certain designations based on modeling information.[6] A second supplement to the March 1978 designations notice affirmed the use of modeling for SO_2 designations and determining air quality status, stating that, ''the EPA's policy related to designations for SO_2 permit the use of either modeling or monitoring to determine attainment status.''[7]

Five years later, in 1983, the EPA conducted a review of all section 107 NAAQS designations made to date. A related EPA memo, ''Section 107 Designation Policy Summary,'' identified the importance of modeling information for source-oriented pollutants in cases where existing monitors did not adequately characterize peak concentrations: ''In general, all available information relative to the attainment status of the area should be reviewed. These data should include the most recent eight consecutive quarters of quality-assured, representative ambient air quality data plus evidence of an implemented control strategy that the EPA had fully approved. Supplemental information, including air quality modeling, emissions data, etc., should be used to determine if the monitoring data accurately characterize the worst case air quality in the area.''[8]

D. Use of Air Quality Modeling Information in Area Designations for the SO_2 NAAQS

Past area designations processes for most NAAQS (such as for ozone) having violations caused and contributed to by multiple sources over a broad region have relied primarily on air quality monitoring data to identify areas that

[1] The standard is defined in 40 CFR 50.17(a)-(b). The 3-year average of the annual 99th percentile of 1-hour daily maximum concentrations is referred to as the ''design value.'' The design value is compared to the level of the standard to determine whether air quality at that location meets the standard.

[2] *See* March 1, 2011, memorandum from Tyler Fox, EPA Office of Air Quality Planning and Standards, ''Additional Clarification Regarding the Application of Appendix W Modeling Guidance for the 1-hr NO_2 NAAQS.'' Research Triangle Park, North Carolina 27711. This memo is available at: *http://www.epa.gov/ttn/scram/Additional_Clarifications_AppendixW_Hourly-NO$_2$-NAAQS_FINAL_03–01–2011.pdf.* See also the December 2013 ''Draft SO_2 NAAQS Designations Modeling Technical Assistance Document,'' issued by EPA Office of Air Quality Planning and Standards, available at *http://www.epa.gov/airquality/sulfurdioxide/pdfs/SO$_2$ ModelingTAD.pdf.*

[3] ''Air agency'' refers to the air quality management agency of the relevant state government or tribal nation.

[4] *See* 36 FR 8186 (April 30, 1971).

[5] *See* 43 FR 8962 (March 3, 1978).

[6] *See* 43 FR 40416 (September 11, 1978).

[7] *See* 43 FR 40502 (September 12, 1978).

[8] Memorandum From Sheldon Myers, Director, EPA Office of Air Quality Planning and Standards, to Regional Office Air Division Directors. ''Section 107 Designation Policy Summary.'' April 21, 1983.

violate the standard. However, it is important to note, as the EPA explained in the final 2010 SO_2 NAAQS preamble, that there is a long history of also using dispersion modeling information to inform area designations for the SO_2 NAAQS. *See,* e.g., 75 FR at 35551–3. The EPA and the air quality management community have recognized over many years that peak concentrations of SO_2 are commonly caused by one or a few major point sources in an area and peak concentrations are typically observed relatively close to the source. Many factors influence the observed SO_2 concentrations around emissions sources, including the sulfur content of fuel that is combusted, the sulfur content of material being heated as part of an industrial process, the rate of SO_2 emissions per hour, stack height, topography, meteorology, monitor location and source operating schedule. But because ambient SO_2 concentrations are not the result of complex chemical reactions (unlike ozone or $PM_{2.5}$), they can be modeled accurately using well-understood air quality modeling tools, especially in areas where one or only a few sources exist. In the 1970's, when the original SO_2 NAAQS were established, there were significantly more SO_2 monitors in operation nationally than today. Even then, the EPA and air agencies acknowledged the utility of modeling in order to inform area designations under the SO_2 NAAQS. *See* e.g., 43 FR 45993, 45994–46002 (Oct. 5, 1978).

Over time, air agencies have operated monitoring networks to characterize SO_2 concentrations as effectively as possible. However, the ambient SO_2 monitoring network has declined in number since its peak of approximately 1,500 monitors in 1980 to its current size of approximately 450 monitors (as of June 2013), due to improving air quality and, more recently, due to increasingly limited resources at the local, state and federal levels. As part of the 2010 SO_2 NAAQS review, the EPA conducted an analysis of the existing monitoring network to inform potential updates to SO_2 minimum monitoring requirements that might accompany a revised NAAQS. The study concluded that only up to a third of the SO_2 monitors in operation at the time were sited to characterize peak 1-hour ambient SO_2 concentrations. The EPA acknowledged this in the SO_2 NAAQS final preamble: ''In preparation for the SO_2 NAAQS proposal, the EPA conducted an analysis of the approximately 488 SO_2 monitoring sites operating during calendar year 2008 (Watkins and Thompson, 2009). This analysis indicated that approximately 35 percent of the sites in the monitoring network were addressing locations of maximum (highest) concentrations, likely linked to a specific source or group of sources. Meanwhile, just under half (~46 percent) of the sites were reported to be for the assessment of concentrations for general population exposure. These data led the EPA to conclude that the network was not properly focused to support the revised NAAQS, given the EPA's belief at the time that source-oriented monitoring data would be a primary tool for assessing compliance with the NAAQS.'' [9] While the current ambient SO_2 monitoring network does serve multiple monitoring objectives (which includes some source-oriented monitoring), on the whole, the network is not appropriately positioned or of adequate size for purposes of the 2010 SO_2 standard to characterize the air quality around many of the nation's larger SO_2 sources in operation today.

In implementation of the prior SO_2 NAAQS, the EPA thus relied upon both modeling and monitoring to inform decisions regarding whether areas were violating the NAAQS. *See* e.g., 67 FR 22168, 22170–71 (May 2, 2002). This historical use of modeling along with monitoring has been affirmed as technically valid and lawful under the CAA by reviewing courts. *See* e.g., *Montana Sulphur & Chemical Co.* v. *the EPA,* 666 F.3d 1174, 1185 (9th Cir. 2012); *PPG Industries, Inc.* v. *Costle,* 630 F.2d 462, 467 (6th Cir. 1980). Because of the inherent challenges in characterizing peak SO_2 ambient air quality strictly through monitoring techniques, past EPA SO_2-related designations actions, state implementation plan (SIP) approval and disapproval rulemakings, federal implementation plan rulemakings and non-binding guidance have recognized that air quality modeling can be appropriately used to identify areas that are meeting or violating the SO_2 NAAQS, and can be used to confirm air quality monitoring data when an area is seeking redesignation to attainment.

The EPA believes that existing air quality modeling tools are technically sound and historically have been used when monitoring data were not available; therefore, the EPA considers these modeling tools appropriate for use in combination with ambient monitoring data for assessing air quality impacts from SO_2 emissions. The EPA has recently issued a draft modeling technical assistance document (TAD) [10] suggesting an approach that could be used by states to characterize SO_2 concentrations around SO_2 sources using the AERMOD [11] model with actual emissions data, actual meteorological data and actual stack height information. More details on the EPA's modeling TAD are provided in section V, Technical Considerations.

E. SO_2 NAAQS Preamble: Suggested Implementation Approach

The preamble to the final SO_2 NAAQS issued in 2010 noted that although the current SO_2 ambient monitoring network included 400+ monitors nationwide, the scope of the network had certain limitations and approximately two-thirds of the monitors were not located to characterize maximum concentration, source-oriented impacts. In order to address potential public health impacts in areas without adequate monitoring that could be experiencing SO_2 concentrations that violate the NAAQS, in the June 2010 SO_2 NAAQS preamble the EPA recommended, but did not require, that air agencies characterize air quality in these areas with limited monitoring through the use of air quality modeling, and adopt substantive emission limitations to ensure attainment of the SO_2 NAAQS where the modeling indicated a violation. The preamble stated that the EPA expected that such analyses and emission limitations would be submitted as part of the section 110(a)(1) infrastructure plans due in June 2013 in order to demonstrate how areas with sources emitting over 100 tons of SO_2 per year would attain and maintain the NAAQS in the future. The EPA subsequently issued draft implementation guidance in September 2011, which further described this suggested approach and requested comments from the public.[12]

A number of commenters on the draft guidance expressed concern with the suggested implementation approach and some challenged this approach in court

[9] *See* 75 FR 35557 (June 22, 2010). *See* also Watkins and Thompson. (2009). SO_2 Network Review and Background; OAQPS; Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, NC. Sulfur Dioxide NAAQS Review Docket (OAR–2007–0352–0037). Available at *http://www.regulations.gov.*

[10] The Draft SO_2 NAAQS Designations Modeling Technical Assistance Document can be found at *http://www.epa.gov/airquality/sulfurdioxide/pdfs/SO2ModelingTAD.pdf.*

[11] ''AERMOD'' stands for the American Meteorological Society/EPA Regulatory Model.

[12] The draft guidance for 1-Hour SO_2 NAAQS SIP Submissions can be found at *http://www.epa.gov/oaqps001/sulfurdioxide/pdfs/DraftSO2Guidance_9-22-11.pdf.*

as part of the final SO_2 NAAQS rule.[13] Many commenters maintained that areas should be designated as nonattainment first, before they are expected to provide technical analyses and adopt enforceable emission limitations demonstrating attainment. They claimed that the recommended approach in effect bypassed the designation process for areas without adequate monitoring, frustrating the preferred sequence in implementing NAAQS under the CAA. A number of commenters were concerned about the level of effort and resources needed to develop plans that essentially required modeling for all sources with annual SO_2 emissions exceeding 100 tons. (There were more than 1,680 sources across the country exceeding 100 tons of actual emissions based on 2008 national emissions inventory data. Based on data from the 2011 National Emissions Inventory, there are about 1500 sources exceeding 100 tons of annual SO_2 emissions.) It was also pointed out that the statutory due date of June 2013 for the section 110 infrastructure plans (which would have included control requirements based primarily on modeling information under the EPA's then-suggested approach) would come well before the attainment plan submittal due date for areas to be designated as nonattainment. (At the time the draft guidance was issued in September 2011, the EPA was planning to issue final designations in June 2012, meaning that nonattainment area plans would have been due 18 months from the effective date of designations, or approximately in February 2014.)[14]

F. The EPA White Paper and Stakeholder Input

1. Background

In response to the comments received on the draft implementation guidance issued in September 2011, the EPA Assistant Administrator for Air and Radiation, Gina McCarthy, sent letters to state Environmental Commissioners on April 12, 2012, indicating that the EPA wanted to further consult with stakeholders regarding how to best implement this standard and protect public health in an effective manner. The letters also stated that the EPA would not expect air agencies to submit substantive attainment demonstrations and emission limitations by June 2013 (as part of section 110(a) infrastructure plans) for areas not designated as ''nonattainment,'' but would expect those submittals to resemble more traditional infrastructure SIPs.

The EPA then issued a May 2012 paper titled, ''Implementation of the 2010 Primary 1-Hour SO_2 NAAQS: Draft White Paper for Discussion'' (White Paper) on possible alternative approaches for implementing the SO_2 standard.[15] The EPA convened 3 stakeholder meetings to discuss the White Paper in May and June of 2012 with, respectively, environmental group representatives; state, local and tribal air agency representatives; and industry representatives. The EPA also accepted written comments on the White Paper from interested parties through the end of June.

In the White Paper and during the stakeholder meetings, the EPA framed the basic challenge of how to more broadly characterize 1-hour SO_2 concentrations in priority locations across the country such that these data could inform future area designations for the SO_2 NAAQS, while taking into consideration limited EPA and air agency resources. The paper noted that peak 1-hour concentrations of SO_2 are most commonly observed in relatively close proximity to emission sources, yet many monitors in the current SO_2 ambient monitoring network are not sited in appropriate locations to document these peak concentrations. Thus, many existing monitors are in effect ''under-reporting'' peak 1-hour concentrations.

The White Paper indicated that there are more than 20,000 SO_2 sources nationally and to add a significant number of ambient monitors to the national network to adequately characterize peak concentrations would take significant resources. The EPA estimates that the capital costs of siting a new monitor can be on the order of $50,000 to $100,000. Routine operations and maintenance costs would be in addition to those up-front capital costs.

Given this background, the White Paper described two monitoring-focused approaches and one modeling-focused approach for characterizing peak 1-hour SO_2 concentrations, and it outlined a range of policy, technical, and implementation issues and questions associated with each approach. The issues and questions highlighted in the White Paper were discussed in depth during the stakeholder meetings. The White Paper and high-level summaries of each meeting are available on the EPA's SO_2 implementation Web site.[16]

2. Monitoring and Modeling Approaches Described in White Paper

Two possible monitoring-focused approaches were described in the White Paper. The White Paper indicated that about 440 SO_2 monitors were operational as of April 2012, but only about a third of those monitors might be considered to be in ''source-oriented'' locations. Thus, if air agencies were to implement a monitoring-only approach without supplemental data from modeling, a number of monitors would either need to be moved within the existing network and/or a number of new monitoring sites would need to be established.

The first monitoring-based approach described in the White Paper would involve air agencies reallocating the monitors that are not source-oriented and otherwise not required to be in their current locations to be moved to source-oriented locations, and then adding additional monitors as necessary to address all areas warranting further characterization of air quality. For example, such a network might be designed to characterize air quality for about 550 sources with annual emissions greater than 2,000 tons, which in total would account for about 93 percent of nationwide SO_2 emissions (based on 2008 national emission inventory data). This option would identify source areas for monitoring based on a single emissions threshold. It would focus on providing air quality characterization around the largest sources and would not provide additional emphasis on sources located in highly populated areas.

The second monitoring-focused option presented in the White Paper was an extension of the Population Weighted Emissions Index (PWEI) concept that was included in the 2010 SO_2 NAAQS ambient monitoring requirements. The PWEI was established to define monitoring requirements for Core Based Statistical Areas (CBSAs) based on calculations using the total SO_2 emissions and total population in the area. This suggested option in the White Paper would require approximately 400 sources located in areas with a high PWEI and having SO_2

[13] On July 20, 2012, the D.C. Circuit Court of Appeals issued a decision upholding the 2010 SO_2 NAAQS. *See* National Environmental Development Association's *Clean Air Project* v. *EPA,* No. 10–1252 (D.C. Cir. July 20, 2012). The U.S. Supreme Court declined to hear an appeal of this decision.

[14] Note that on July 27, 2012, the EPA announced that it was extending the deadline for the initial round of SO_2 NAAQS area designations by an additional year, to June 3, 2013, which thus compounded this timing discrepancy in many commenters' views.

[15] The May 2012 White Paper and high-level summaries of stakeholder meetings are available at: *http://www.epa.gov/oaqps001/sulfurdioxide/implement.html.* These documents and written comments received from stakeholders are also included in the docket for this rulemaking.

[16] *See http://www.epa.gov/airquality/sulfurdioxide/implement.html.*

emissions over 750 tons per year (tpy) to have source-oriented monitoring; and an estimated 170 additional sources located outside those PWEI areas having emissions over 5,000 tpy to have source-oriented monitoring. This option also would account for more than 90 percent of nationwide SO_2 emissions (based on 2008 national emission inventory data).

Thus, both monitoring-only approaches, using the example cutoffs identified in the White Paper, were estimated to provide for the characterization of air quality for at least 500 sources that accounted for at least 90 percent of national emissions (based on 2008 emissions data).[17] One key difference between the 2 options was that the second option provided some additional emphasis on ensuring the characterization of air quality in areas with relatively higher populations.

The White Paper also included discussion of a modeling-based approach, in which air quality dispersion modeling with AERMOD would be used to characterize air quality for areas in which the largest SO_2 sources are located. The EPA presented this potential approach because air quality modeling has been used for SO_2 designations in the past, and conducting air quality modeling analyses for SO_2 would likely be less resource intensive than the full-scale expansion and operation of the ambient monitoring network described in the Paper. Under this approach, modeling would be required to characterize air quality in areas in which sources exceeding a specified emissions threshold are located.

3. Comments on Monitoring-Based Approaches

In the May–June 2012 stakeholder meetings and written comments received thereafter, a number of stakeholders, including several state and local air agency representatives, expressed a preference for the use of ambient monitoring alone to characterize air quality SO_2 concentrations. They indicated that, since the 1970s, ambient monitoring has been the traditional approach for characterizing air quality to assess compliance with all other NAAQS. They claimed that the expanded use of air quality modeling to characterize SO_2 concentrations, as described in the draft September 2011 guidance, would not be appropriate because they believed that modeling techniques inherently over-predict SO_2 concentrations by assuming a constant rate of peak emissions and worst-case meteorological conditions.

Commenters from some of the states with the greatest number of large SO_2 sources (such as Ohio, Indiana and Pennsylvania) indicated that for each source, as many as 3 monitors or more might be needed to adequately characterize 1-hour SO_2 concentrations around the source, in order to avoid monitoring that underestimates maximum SO_2 concentrations.[18] Some also recommended the addition of an onsite meteorological station near each source to aid monitoring data analysis.

Representatives from environmental organizations did not favor monitoring-based approaches. They emphasized the importance of characterizing air quality in priority areas expeditiously in order for such data to be used in the area designations process and monitoring approaches would take several years to site new monitors and collect 3 years of data. They pointed out that high 1-hour concentrations can occur in any direction around a source and that state air agencies would not have the resources to provide for multiple monitors around priority sources.

While some air agencies nevertheless maintained a preference for ambient monitoring, a number of them also expressed the concern that it would be difficult to expand their SO_2 networks with additional air quality monitors as needed because state budget resources are very limited today. Some commented that from a practical standpoint, if an expanded SO_2 monitoring network was to be established, it would need to be funded by the federal government, or by the source owners themselves. In contrast, a number of commenters representing sources of SO_2 emissions or industry associations maintained that ambient air quality monitoring to protect public health should be a governmental responsibility, rather than the responsibility of the emissions sources themselves. Some industry representatives indicated that they operate their own monitoring networks and could explore with corresponding air agencies the possibility of using data from such monitors under a monitor-based approach. Such monitors would need to meet the EPA's quality-assurance requirements, the data would need to be made publicly available and an agreement for long-term operation and funding would need to be considered.

Thus, while ambient monitoring appeared to be the favored methodology by a number of stakeholders, there were very pragmatic concerns expressed about the cost of expanding current networks sufficiently to ensure proper coverage and uncertainty about how many new monitors could be established in actuality. Some air agency representatives remarked that if modeling is also recognized as an acceptable approach for characterizing air quality, then they would be open to both approaches, as long as the state has the flexibility to use the analytical method that would make the most sense for each identified source area, considering the coverage of the state's existing monitoring network, various resource and staffing considerations, and other factors.

4. Comments on Modeling Approach

Environmental group representatives generally favored the use of modeling, citing the EPA's prior policy and various regulatory precedents in which modeling has been used to characterize SO_2 air quality. They emphasized that modeling can be done more quickly, with less expense and for more locations (including locations where physically siting a monitor would be very difficult) than monitoring. They indicated that the cost of modeling assessments for certain source areas could be done for less than $10,000.

Many air agency and industry commenters asserted that if the September 2011 draft modeling guidance for attainment plans (which, consistent with longstanding guidance and practice in SO_2 attainment planning, recommended the use of allowable, not actual, emissions rates) is maintained as the guidance for characterizing current air quality and is used for designations purposes, it would lead to significant over-predictions of 1-hour SO_2 concentrations. Some commenters opposed the use of modeling at all for this reason, without suggesting ways to correct this asserted over-prediction. Some commenters also cited specific technical issues with the AERMOD model (such as the treatment of low wind speed conditions and the treatment of building ''downwash'' conditions) which they believe contribute to the over-prediction of air quality concentrations.

A number of commenters did not oppose modeling outright, but suggested that if modeling is part of the EPA's overall approach, the EPA should allow air agencies to conduct modeling based on actual emissions, since modeling in this context in effect would serve as a surrogate to comprehensive ambient

[17] Based on 2008 emissions data, about 480 sources with actual emissions exceeding 2,800 tons per year accounted for 90 percent of national SO_2 emissions.

[18] *See,* for example, comments from Ohio EPA, docket number EPA–HQ–OAR–2010–1059–0123.

monitoring, while overcoming the current monitoring network's relative lack of coverage. For example, the Florida Department of Environmental Protection provided an example analysis in their comments which showed modeled air quality results using actual emissions inputs in close agreement with monitored air quality values near a large emission source in Florida.[19]

The EPA notes that the reason the draft modeling guidance issued in September 2011 recommended the use of the source's allowable emissions rate in the modeling analysis is because it was developed for predictive situations, such as when an air agency would be demonstrating attainment for the future, where use of allowable emissions rates is common for providing assurance that the prediction includes a full range of potential emissions scenarios. However, the EPA acknowledges that for the purpose of characterizing current[20] air quality, it is reasonable for modeling presumptively to use actual emissions data and/or actual 1-hour emission rates as an input in order to most closely represent ambient monitoring results. The EPA has concluded that using actual emissions data and meteorological data as inputs to AERMOD modeling can adequately characterize peak concentrations in multiple directions around a source. Note also that after considering the White Paper comments, the EPA developed the draft SO_2 NAAQS Designations Modeling TAD that recommends using AERMOD to estimate air quality concentrations near a large SO_2 source by using actual emissions data (such as 1-hour emissions rates from continuous emission monitors) and meteorological data from appropriate proximate nearby locations.[21]

In light of the practical concerns about the cost of adding new ambient monitors, the uncertainty (at the time of the stakeholder meetings) about whether actual emissions would be able to be used for air quality modeling for this purpose, and how accurate the predictive results of such modeling would be, many commenters suggested that air agencies should be provided the flexibility to choose whichever approach makes the most sense on a case-by-case basis for characterizing air quality around each priority source in the state. In addition, based on comments received on the White Paper regarding state resource concerns, it appears that some air agencies likely will need to rely primarily on air quality modeling techniques.

5. Comments on Emissions Threshold

While there was not consensus with respect to using a single approach for characterizing air quality from SO_2 sources, one issue that all parties involved in the stakeholder discussions generally agreed upon was the concept of having a ''threshold'' of some sort to identify the largest sources around which ambient air quality would need to be characterized to inform future rounds of area designations. A number of stakeholders commented that, given current budgetary and other constraints on resources for characterizing air quality through either monitoring or modeling, focusing on the largest sources of emissions would be a reasonable approach for prioritizing sources to be evaluated for purposes of assessing attainment with the 1-hour SO_2 NAAQS. Many stakeholders found the basic policy approach expressed in the White Paper (where air agencies would characterize air quality for sources accounting for 90 percent of national SO_2 emissions for use in future designations) to be reasonable and preferable to the approach in the September 2011 guidance (where air agencies were expected to demonstrate attainment around all sources in the state emitting more than 100 tons of SO_2 per year).

Some commenters offered recommendations for specific SO_2 thresholds based on annual emissions or other factors that would define which sources air agencies would be expected to characterize through monitoring or modeling in the future. Some commenters suggested single threshold levels ranging from 100 to 5,000 tons of SO_2 emissions per year. A few commenters suggested a phased approach, in which larger sources (e.g., 2,000 tpy and larger) would be addressed in an initial phase and smaller sources (e.g., 500–2,000 tpy) would be addressed in a second phase 2 or more years later.[22] Several commenters observed that because the SO_2 NAAQS is a 1-hour standard, a potentially more appropriate metric for a threshold would be one based on hourly emissions rates rather than tpy. Others recognized, however, that 1-hour emissions data are not readily available for many types of emissions sources other than electric generating units (EGUs) (which commonly operate continuous emissions monitors (CEMs)).

Some commenters stated that because protection of public health is the principal objective of the SO_2 NAAQS, a program to direct air agencies to characterize SO_2 concentrations around large SO_2 sources should include some specific emphasis on sources located in areas with higher populations. Some suggested that other factors such as the height of emissions stacks, proximity to sensitive receptors (*i.e.,* schools, hospitals, nursing homes), or source compliance record should also be considered in establishing a threshold-based approach.

6. Comments on Program Implementation

A number of stakeholders provided comments on the timing of implementation for any program requiring air agencies to further characterize peak 1-hour SO_2 concentrations. Many commenters stated that any new modeling or monitoring requirements should be established through a notice-and-comment rulemaking process. In addition, a number of air agency representatives indicated that the program needs to be structured in such a way that allows for sufficient time to conduct the necessary monitoring or modeling, citing the large number of sources to be addressed (even with a threshold), limited resources and the stringency of the 1-hour standard. The proposed timeline for implementation is discussed in more detail in section IV of this preamble.

The input received from stakeholders during these meetings and in written comments was invaluable to informing the EPA's refinement of its SO_2 implementation strategy, which was released in February 2013 and is discussed in the next section. Input from the stakeholder meetings and comments on the White Paper also informed the recent TADs on

[19] *See* Docket item the EPA–HQ–OAR–2010–1059–0172, June 29, 2012, letter from Florida Department of Environmental Protection with comments on the EPA's April 2012 SO_2 White Paper.

[20] ''Current'' air quality in this context refers to the air quality indicator that may be used by the EPA for various regulatory decisions in a future designations process (*e.g.,* the most recent 3 years of monitoring data).

[21] While the use of actual emissions data is recommended in the draft modeling TAD, there may be situations where the use of allowable emissions rates to characterize current air quality may be beneficial for the air agency or source to show that even with this type of conservative assumption, the source area would be expected to attain the standard. One benefit of an analysis demonstrating attainment of the 1-hour standard based on allowable emission rates is that it would avert the need for recurring review to determine whether emission increases have created new potential for NAAQS violations.

[22] Comments on the EPA White Paper from the Georgia Department of Natural Resources, EPA Docket ID No. EPA–HQ–OAR–2010–1059–0136, June 29, 2012.

monitoring[23] and modeling for designations.

G. The EPA's February 2013 SO_2 Implementation Strategy Paper

On February 13, 2013, as part of the initial area designations process, the EPA notified air agencies that we intended to designate 30 areas as nonattainment, based on monitored violations of the SO_2 NAAQS.[24] We also notified air agencies that the EPA was not yet prepared to propose designations for other areas without violating monitors. On the same day, the EPA also issued an implementation strategy paper titled, ''Next Steps for Area Designations and Implementation of the SO_2 NAAQS.''[25] This Strategy Paper described the agency's plan for addressing public health concerns in areas other than the areas identified in initial designation. The Strategy Paper recognizes the need to further characterize current air quality across the country to address important public health impacts, noting that ''the current monitoring network provides relatively limited geographic coverage, and many monitors in the existing network are not sited with the objective of characterizing source-oriented maximum concentrations.'' The Paper also supports the long-standing approach in the CAA for the EPA to designate nonattainment areas through an orderly exchange of recommendations and technical information between state governments and the EPA.

The main elements of the implementation strategy include the following:

- The EPA would develop a rulemaking directing air agencies to characterize air quality in priority source areas through either air quality monitoring or air quality modeling and submit such data to the EPA. The present proposal is a key step in fulfilling this aspect of the strategy.
- The rule would identify priority sources as those sources exceeding specific thresholds based wholly or in part upon annual emissions. Some threshold options may be ''2-pronged,'' meaning they could include a lower threshold for sources located in metropolitan areas larger than a certain size and a higher threshold for sources located outside such metropolitan areas.
- Prior to proposal of the rulemaking, the EPA would issue draft TADs on siting ambient, on source-oriented SO_2 monitors at locations of expected maximum concentration and on the use of air quality modeling to characterize ''current'' air quality around an emission source for purposes of designations recommendations.
- To fulfill their requirements to characterize air quality, states would have flexibility to choose whether to use monitoring or modeling to characterize air quality around or in proximity to identified sources. Air agencies would follow the timeline provided in the rule, which would specify the dates by which they need to identify the method to be used to characterize air quality and the date for submitting these data to the EPA along with relevant designation recommendations.
- The EPA and air agencies would use these data to complete two additional rounds of area designations as soon as feasible after the data become available.
- The Strategy Paper noted that this approach provides an incentive for states and other air agencies to work with their sources to achieve early reductions to improve public health and potentially avoid a nonattainment designation for as many priority source areas as possible.

With regard to identifying priority sources through source threshold options, the Strategy Paper first discussed appropriate monitoring objectives for a NAAQS pollutant that can have localized impacts, such as SO_2 or lead. It indicated that important monitoring objectives should include (1) characterization of peak air quality concentrations in the area around the source (e.g., source-oriented and maximum concentration monitoring); and (2) characterization of air quality in populated areas, intended to represent ambient concentrations to which people in the area are exposed.

To meet these two objectives, the EPA suggested the establishment of a ''2-pronged'' emissions threshold for identifying sources for which the air agency would need to further characterize air quality. The paper states: ''Under such an approach, a lower threshold (e.g., 2,000–3,000 tpy) would apply to sources located in more heavily populated areas (e.g., CBSAs having 1,000,000 or more persons); and a higher threshold (e.g., 5,000–10,000 tpy) would apply to sources located in less populated areas outside of such CBSAs. To illustrate potential coverage of possible options, a 2-pronged threshold including 3,000+ ton sources located in CBSA's with a population of 1,000,000 and 10,000+ ton sources outside of these CBSA's, would cover 202 sources and 66 percent of national emissions. A 2-pronged threshold including 2,000+ ton sources located in CBSA's with a population of 1,000,000 and 5,000+ ton sources outside of these CBSA's, would cover 341 sources and 81 percent of national emissions.''

The Strategy Paper goes on to say, ''In a future rulemaking, factors to consider in selecting appropriate thresholds could include the comprehensiveness of the total emissions represented; the comparability of source coverage under this approach with typical source coverage of an ambient monitoring network; emission levels for sources in areas with monitored violations; and emission levels associated with 'well-controlled' sources. Upon analysis of such factors, the EPA would expect to propose a range of threshold options for a minimum level of coverage (preliminary estimates suggest that this range could cover sources accounting for 66 percent to 90 percent of national SO_2 emissions). In addition, the basis for the emissions that would be compared to the threshold (e.g., highest of the most recent 3 years of data) would need to be defined in the rulemaking.''

III. Source Coverage and Emission Threshold Options

A. Background

This section discusses the proposed ''threshold'' options for identifying source areas for future air quality characterization and the factors that the EPA considered in developing them. The EPA believes the key objective to be achieved by using SO_2 source emission thresholds would be to focus the limited available resources at the local, state and federal levels toward characterizing air quality in areas having the largest SO_2 emitting sources (and greater potential for relatively higher SO_2 concentrations) but may be lacking sufficient air quality data. In proposing source threshold options, the EPA seeks to collect additional air quality data intended to achieve protection of public health on a widespread basis from the adverse health effects of short-term exposure to high SO_2 concentrations. However, the EPA recognizes that for SO_2 and all other NAAQS, characterizing air quality in areas around all sources nationally is not feasible. Thus, just as NAAQS ambient monitoring networks are designed to

[23] The Draft SO_2 NAAQS Designations Source-Oriented Monitoring Technical Assistance Document can be found at *http://www.epa.gov/airquality/sulfurdioxide/pdfs/SO2MonitoringTAD.pdf.*

[24] The EPA finalized nonattainment designations for 29 of those 30 areas August 5, 2013 (78 FR 47191, 47205). The EPA took no designation-related action on the rest of the country. Estimated total stationary source SO_2 emissions (calendar year 2011) in these areas ranged from 562 tons (lowest area) to 144,267 tons (highest area) per year.

[25] The February 2013 SO_2 NAAQS implementation strategy paper can be found at: *http://www.epa.gov/oaqps001/sulfurdioxide/implement.html.*

measure air quality in areas where the public is likely to be exposed and violations may be likely, these SO_2 threshold options are designed to meet a similar objective. These options also provide for the characterization of air quality in a substantial number of source areas that account for a high percentage of the national SO_2 emissions inventory in a manner that provides flexibility to air agencies, given existing funding and resource constraints.

B. Proposed Source Emission Threshold Options

The purpose of establishing emission thresholds by rule will be to identify those SO_2 emissions sources for which air agencies will be directed to either: (1) Characterize air quality through either ambient monitoring or air quality modeling; or (2) demonstrate that there are adequate enforceable emission limits in place for the area's sources by January 2017 that will ensure attainment with the 1-hour SO_2 standard. We note that some commenters suggested that a number of sources are planning to shut down during the next few years and should not be subject to this rule. If sources have indeed shut down by January 2017, a demonstration to that effect would also be sufficient.

We note that air agencies may have other factors or reasons that lead them to evaluate 1-hour air quality concentrations for SO_2 source areas other than those that may be required to be characterized pursuant to this proposed rule. This proposed rule only presents a minimum set of sources for which surrounding ambient air quality would need to be characterized. As discussed in more detail in section IV, the air agency or the EPA Regional Administrator [26] may identify other sources that should be characterized beyond the minimum requirements of this proposed rule.

In developing the proposed source emission threshold options, the EPA considered two important preliminary questions: (1) What is an appropriate metric for defining a source threshold? and (2) should population centers be addressed by source threshold options? The EPA considers each of these questions first before discussing the three proposed source threshold options.

[26] Throughout this proposed rule the ''EPA Regional Administrator'' refers to the Regional Administrator or a delegated representative.

1. What are the appropriate emissions metrics for use in a threshold approach?

The EPA's 2012 White Paper and the 2013 Strategy Paper discuss appropriate metrics to use in establishing a threshold-based approach to characterize ambient air quality surrounding a subset of priority SO_2 sources. In these papers, the EPA described the source emission threshold concept in terms of the metric of annual tons of SO_2 emissions. Because the standard is expressed in terms of a 1-hour form, a potentially more appropriate metric to use for establishing a source threshold concept to identify priority sources may be the 1-hour emission rate. Many EGUs are already required to track and report 1-hour emission rates in accordance with existing requirements to operate CEMs for compliance with existing programs. However, most facilities in non-EGU sectors (e.g., pulp and paper facilities, Portland cement plants, petroleum refineries, etc.) do not currently operate CEMs nor do they collect emissions data on an hourly basis.

Commenters on the White Paper also identified some other factors that potentially could be used or incorporated into an approach to identify sources for air quality characterization. These factors include stack height, proximity to sensitive populations (e.g., schools, hospitals, nursing homes) and topography, among others. Some commenters suggested that the EPA develop a complex matrix of multiple factors for identifying sources.

The EPA recognizes that any source emission threshold approach needs to strike a reasonable balance between the robustness of the technical approach and the feasibility of implementing it. The EPA believes that inclusion of factors other than emissions data in a source threshold approach will be difficult for implementation because current databases do not provide comprehensive data for other factors for all SO_2 candidate sources nationally. In addition, we do not anticipate that the introduction of these multiple other potential factors would improve the source identification approach by such a degree that it would justify the complexity and additional administrative burden introduced by the inclusion of such factors.

The EPA therefore is proposing that the emissions-based component in the threshold options presented in this rulemaking be expressed in terms of annual emissions of SO_2. Annual emissions data are available for all SO_2 emissions sources over 100 tpy, whether EGU or non-EGU, and thus providing a stable and common metric for large sources. Requirements for the submittal of such data already are found in existing regulations for large SO_2 sources, whereas submittal of 1-hour emissions data is not currently required for all large sources of SO_2. Thus, an annual emissions-based approach would not impose substantial new reporting burdens on states and sources. This metric will also allow for program implementation based on a common and complete dataset; and importantly, many stakeholders in past meetings have expressed support for the use of annual emissions.

The EPA requests comment on the use of annual emissions (i.e., tons of SO_2 per year) as the metric to be used for an emissions and population-based threshold approach, or, alternatively, for a solely emissions-based threshold approach, to identify SO_2 sources for further ambient air quality characterization with respect to the 1-hour SO_2 NAAQS. The EPA also requests comment on any potential alternative factors that should be considered for defining emissions thresholds, along with any information about the availability of data related to this factor for all SO_2 sources nationally, the time and resources needed to develop a database for this additional factor, any associated technical analysis and rationale for using these other factors in defining source thresholds.

2. Should a tighter threshold apply in more populated areas?

In the 2012 White Paper, the EPA presented the issue of whether population exposure could have a role in the process of identifying where limited resources should be focused in creating new air quality data, as it historically has in designing ambient air quality networks. In feedback received during meetings with stakeholders, commenters varied in their opinions regarding whether there should be a population-based aspect to the source threshold concept or not. Some stakeholders supported a threshold based strictly on SO_2 emissions, while others supported an option with both a source-oriented component and a population-based component.

After considering these comments, the EPA in its February 2013 SO_2 Strategy Paper presented example options for establishing ''2-pronged'' source thresholds that would include a lower emissions threshold for sources located in areas with higher population and a higher emissions threshold for sources outside those higher population areas. One advantage of a 2-pronged option is that it directly addresses source-

oriented emissions and includes an element of population exposure. A lower threshold for urban sources can help increase public health protection because there are more people in an area that could be impacted by relatively smaller sources. At the same time, the higher threshold outside the populated areas allows resources spent on characterizing air quality around smaller sources to be more efficiently focused on the more populated areas.

Consistent with the February 2013 Strategy Paper, the EPA believes it would be most prudent to design this data requirements rule to include specific priority for characterizing air quality around sources located in areas of higher population and therefore the potential for greater population exposure to unsafe 1-hour SO_2 concentrations. The air quality data to be developed by air agencies will be used in protecting public health in these areas through the area designations process. The inclusion of population exposure as an objective in this program also would be generally consistent with the rationale behind the PWEI concept used in the monitoring requirements promulgated in the 2010 SO_2 NAAQS final rule.

The EPA believes that in defining the population exposure component of a source threshold approach, it is preferable to link the threshold to population data for CBSAs. As a precedent, the EPA has recently used the population threshold of CBSAs having 1,000,000 or more persons for certain minimum monitoring requirements for nitrogen dioxide (NO_2), carbon monoxide and particulate matter. Further, the recent 2013 Revision to Ambient Nitrogen Dioxide Monitoring Requirements rule modified the dates by which required near-road NO_2 monitors are to be operational, with the first phase of these monitors focused in CBSAs having 1,000,000 or more persons.

Based upon 2012 population estimates from the U.S. Census Bureau, areas meeting the 1,000,000 person CBSA threshold represent approximately 55 percent of the total U.S. population. The EPA believes this threshold is a reasonable metric to use when there is a need to more explicitly consider issues of concern in the nation's more urbanized areas. Due to the recent use of this particular population threshold, we again propose to use it as a means of demarking how a source threshold approach might be applied in the more populated areas of the country. The EPA requests comment on its proposed use of the 1 million person CBSA population threshold for representing the population exposure component of the source threshold options in this rule. The EPA also requests comment on whether to include a population exposure-based threshold at all, and on whether alternative or additional criteria would be appropriate to further focus resources on characterizing air quality in areas with a higher likelihood of population exposure. The EPA also recommends that commenters provide appropriate supplementary information to support their comments.

3. What are the proposed options for source emission and population thresholds?

The EPA is proposing a preferred source emission and population threshold option and we are requesting comment on two other alternative options. These options are summarized in Table 1 below. Data from the emissions year of 2011 were used to calculate the number of sources covered and the percent of national SO_2 emissions covered by each option. Total SO_2 emissions in 2011 were 5.8 million tons.

All of these options are in the form of a ''2-pronged'' approach using both source emissions and population data. Each has a lower annual SO_2 emissions tonnage threshold for sources located in urbanized areas (e.g., CBSAs) with a population greater than 1,000,000, and a higher annual emissions tonnage threshold for sources located outside of such areas. These options have been developed after taking into account comments from a number of stakeholders during previous discussions in 2012 as discussed in section II above.

The intent of the following proposed options is to identify a minimum set of sources meeting a common set of criteria for which additional monitoring or modeling would be conducted to characterize current ambient air quality in priority areas with the greatest potential for exposure to violations of the SO_2 NAAQS (such as may be used to inform future designations under the SO_2 NAAQS). However, we note that, while a state that meets these minimum requirements would satisfy the rule, there may still be a need to characterize air quality for other sources below the thresholds in this rule that the air agency or the EPA Regional Administrator deems may have the potential to violate the NAAQS. For any such source areas, the air agency could choose whether to characterize air quality through monitoring or modeling. In a modeling analysis, a source below the threshold could be accounted for directly as one of the sources included in the modeling assessment, or in some cases it could be sufficient to account for smaller stationary and area sources of SO_2 in how background emissions are characterized in the analysis.

The EPA is proposing Option 1, which would require ambient air quality characterization around sources with emissions greater than 1,000 tpy which are located within any CBSA having 1,000,000 or more persons, and around sources with emissions greater than 2,000 tpy located outside CBSAs having 1,000,000 or more persons. Based upon 2011 emissions data and 2012 census estimates, Option 1 would identify 443 sources which account for 75 percent of the total SO_2 emissions inventory located in areas currently not designated. In addition to those sources, Table 1 also indicates that 53 sources exceeding these thresholds were included in areas designated nonattainment in 2013,[27] and, according to 2011 emissions data, they accounted for over 900,000 tons of SO_2. Thus, the total coverage of this option, including sources above the thresholds and sources included in designated nonattainment areas, would be 496 sources and 90 percent of national SO_2 emissions in 2011.

The EPA notes that the ''90 percent threshold'' concept embodied in the preferred Option 1 was first described in the May 2012 White Paper and discussed in the May-June 2012 stakeholder meetings. A number of stakeholders expressed general support for a threshold at this level because, while still addressing 90 percent of the inventory, it efficiently focused program requirements on a limited subset of the 20,000+ SO_2 sources nationally, and substantially fewer sources than the almost 1,700 100-ton sources targeted by the original strategy discussed in the final SO_2 NAAQS preamble and September 2011 draft and the EPA guidance. Under Option 1, it is estimated that no more than 32 sources from any one state would meet the minimum source threshold criteria. Option 1 also is generally consistent with the monitoring coverage provided by the lead NAAQS, which is a standard designed primarily to address source-oriented emissions impacts, similar to the SO_2 NAAQS.

Option 2 would require ambient air quality characterization around sources with emissions greater than 2,000 tpy that are located within any CBSA

[27] *See* EPA memorandum to the docket that identifies SO_2 emissions sources that would be covered by each proposed source emissions threshold option, and sources located in designated nonattainment areas.

having 1,000,000 or more persons, and around sources with emissions greater than 5,000 tpy located outside CBSAs having 1,000,000 or more persons. Based upon 2011 emission year data and 2012 census estimates, Option 2 would identify for characterization 270 sources that account for 66 percent of the total SO_2 emissions inventory located in areas currently not designated.[28] Therefore, the total coverage of this option, including sources above the thresholds and sources included in designated nonattainment areas, would be 323 sources and 82 percent of national SO_2 emissions in 2011.

Option 3 would require ambient air quality characterization around sources with emissions greater than 3,000 tpy that are located within any CBSA having 1,000,000 or more persons, and around sources with emissions greater than 10,000 tpy located outside CBSAs having 1,000,000 or more persons. Based upon 2011 emission year data and 2012 census data, Option 3 would identify for characterization 158 sources that account for 54 percent of the total SO_2 emissions inventory located in areas currently not designated. Thus, the total coverage of this option, including sources above the thresholds and sources included in designated nonattainment areas, would be 211 sources and 69 percent of national SO_2 emissions in 2011.

The preferred Option 1 and the other two options are summarized in Table 1 below with regard to emission thresholds, population thresholds, number of sources identified for characterization and percent of national inventory (before and after subtracting sources already in areas designated nonattainment).

TABLE 1—SUMMARY OF SOURCE THRESHOLD OPTIONS [a]

Option	Threshold for sources		Number of sources **	Percent of national emissions † (%)	Plus sources in 2013 desig. nonatt. areas ‡	Total source coverage	Total emissions coverage (%)
	Inside CBSAs greater than 1M	Outside CBSAs greater than 1M					
1*	1,000 TPY	2,000 TPY	443	75	53	496	90
2	2,000 TPY	5,000 TPY	270	66	53	323	82
3	3,000 TPY	10,000 TPY	158	54	53	211	69

[a] The emissions in this table are based on the 2011 National Emissions Inventory (NEI) and differ from the information in the February 2013 Strategy Paper, which was based on the 2008 NEI and preliminary 2011 data. These numbers are also based on the 2013 CBSA definitions.
* Preferred option.
** These do not include sources located in nonattainment areas designated in 2013.
† Total SO_2 emissions in 2011 were 5.8 million tons.
‡ There are 53 sources with annual emissions greater than 1,000 tpy in nonattainment areas designated in 2013.

The EPA proposes that states be required to characterize air quality around SO_2 emission sources identified by the thresholds presented in Option 1. The agency requests comment on the proposed option, and the other options described and presented here. Specifically, comment is requested on the emission threshold values (in tpy), the 1 million CBSA population thresholds, their combination as a means of determining how SO_2 sources would be identified and on any possible alternatives that might be appropriate for consideration. The EPA requests comment on the scope of sources for which we are requiring data through this proposed rulemaking. The EPA is also interested in commenters' preferences and clear explanation of the rationales for their positions. The EPA also requests any information identifying sources that would be included by these options but that have confirmed documentation to show that they will shut down in the next several years. A number of sources included in the source counts included in Table 1 have indicated their intent to shut down or repower, meaning that the number of sources around which air agencies would be directed to characterize air quality under this program is likely overestimated for all options in Table 1. An updated and more complete picture of which SO_2 sources are scheduled for modification or shutdown would be useful for refining the estimates in Table 1 of the number of sources that would be covered under each option.

IV. Data Requirements and Program Implementation Timeline

This section discusses the deadlines for air agency actions that would be required under this proposed rule. It also discusses, for informational purposes, additional anticipated implementation milestones that are important in the SO_2 designations and implementation process. These deadlines and milestones were initially suggested in the February 2013 SO_2 Strategy Paper. In the February 2013 SO_2 Strategy Paper, the EPA also indicated its intent to use these data (and any updated recommendations from the air agency) to inform future designations in a timely manner. The EPA believes that the implementation timeline proposed below is responsive to concerns raised in comments on the May 2012 White Paper requesting that air agencies have the flexibility and sufficient time to pursue either the monitoring or modeling pathway for identified sources within their jurisdiction. We also believe that this timeline represents a practical but expeditious schedule for developing information needed to determine SO_2 air quality data for purposes of designations. This schedule allows air agencies to account for SO_2 reductions that will occur over the next several years as a result of trends in industry and implementation of national and state level programs. EPA solicits comments on the feasibility of the proposed implementation timeline below.

Date	Action
From promulgation of this rulemaking to January 15, 2016.	From promulgation of this rulemaking to January 15, 2016: Air agency and the EPA Regional Office consult on list of SO_2 sources; air agency is required to submit its list of sources along with its election of monitoring or modeling for characterizing air quality to the EPA Regional Administrator.

[28] Options 2 and 3 were provided as examples in the February 2013 SO_2 implementation strategy paper and have been discussed with various stakeholders since that time.

Date	Action
January 15, 2016	Air agency is required to submit modeling protocols for sources that will be characterized with modeling.
July 2016	Annual Monitoring Network Plans due to the EPA Regional Administrator should include SO_2 monitoring network modifications intended to satisfy the Data Requirements Rule.
January 1, 2017	SO_2 monitors intended to satisfy the Data Requirements Rule are required to be operational.
January 13, 2017	States electing to model are required to provide modeling analyses to the EPA Regional Administrators.
August 2017	Expected date by which the EPA would notify states of intended designations.
December 2017	Intended date by which the EPA would issue final designations for a majority of the country.
August 2019	Anticipated due date for state attainment plans for areas designated nonattainment in 2017.
May 2020	Required certification of 2019 monitoring data; states have the opportunity to provide updated state recommendations to the EPA Regional Administrators.
August 2020	Expected date by which the EPA would notify states of intended designations for the remainder of the country not yet designated.
December 2020	Intended date by which the EPA would issue final designations for the remainder of the country.
August 2022	Anticipated due date for state attainment plans for areas designated nonattainment in 2020.

A. From Promulgation of This Rulemaking to January 15, 2016: Air Agency and the EPA Regional Office Consult on List of SO_2 Sources; Air Agency Is Required To Submit Its List of Sources Along With Its Election of Monitoring or Modeling for Characterizing Air Quality to the EPA Regional Administrator

The EPA strongly encourages each air agency to consult with its EPA Regional Office to identify sources exceeding the emission thresholds in the final rule (as described in section III) and any other areas near sources that do not exceed the emission thresholds but which would be appropriate for air quality characterization as well. It will be important for the air agency and the EPA to carry out this consultation process as soon as possible and to reach agreement on the list of sources quickly and efficiently.

As a starting point, the EPA has included in the docket to this proposed rule a preliminary list of sources that appear to meet the criteria described in the EPA's proposed source threshold approach.[29] This list was developed based on the most recent publicly available information found in national EPA databases, including the 2011 NEI as well as the most recent data submitted in accordance with the EPA Acid Rain Program and the Air Emissions Reporting Requirements (AERR) rule.[30] The EPA requests that air agencies provide in their comments on this proposed rule any relevant updated information that would support the addition or removal of a source area from this preliminary list, along with relevant rationale and supporting information.

Based on relevant information received during the comment period, the EPA will update this preliminary list of source areas identified for air quality characterization as warranted and issue a revised version of the list at the time this rulemaking is finalized (currently scheduled for late 2014). The EPA will also post the list on the EPA SO_2 designations Web site. We expect that in developing this revised version of the list, data for calendar year 2013 would be the most recently available information for EGU's subject to the Acid Rain Trading Program. Emissions for these sources are recorded with CEMs and the data for a particular calendar year are certified and publicly available early in the following year.[31] For non-EGUs, many of which do not operate CEMs, SO_2 emissions data for calendar year 2012 would be the most recently available data in late 2014.

Section 51.1203(a) of this rulemaking, as proposed, would then require each air agency to submit to its EPA Regional Administrator[32] by January 15, 2016, a final list identifying the specific sources in the state around which SO_2 air quality is to be characterized, and whether the air agency commits to conduct monitoring or modeling to characterize air quality around the source according to the process defined in this rulemaking. We note that, while a state may not have any sources that exceed the minimum source threshold requirements, there may still be a separate need (such as may arise in making future designations recommendations) for the air agency to characterize air quality for any other sources below the thresholds in this proposed rule that the air agency or the EPA Regional Administrator deems may have the potential to violate the NAAQS. For example, the air agency or the EPA Administrator may determine that the air quality should be characterized around multiple sources located in close proximity that individually are below the threshold but whose combined emissions may violate the NAAQS.

We expect that meeting this submittal requirement could be satisfied through a letter submitted to the EPA Regional Administrator. By January 15, 2016, the EPA would expect that 2014 data would be available for EGU sources and 2013 data would be available for non-EGU sources. By considering the most recent emissions data, the air agency and the EPA will be able to take into account any recent emissions increases or decreases that would cause a source to be subject to the requirements in this proposed rule or not.

The EPA believes that this proposed requirement for the air agency to submit a list of source areas identified for further air quality characterization, and the other data submittal requirements found in sections 51.1203 of the proposed rule, are appropriate steps needed to understand SO_2 air quality throughout the country prior to designations, and are consistent with section 110(a)(2)(B), section 110(a)(2)(K) and section 301(a)(1) of the CAA. Section 110(a)(2)(B) indicates that state SIPs are to ''provide for establishment and operation of appropriate devices, methods, systems, and procedures necessary to (i) monitor, compile and analyze data on ambient air quality and (ii) upon request, make such data available to the Administrator.'' Section 110(a)(2)(K) states that SIPs shall ''provide for (i) the performance of such air quality modeling as the Administrator may prescribe for the purpose of predicting the effect on ambient air quality of any emissions of

[29] *See* EPA memorandum to the docket that identifies SO_2 emissions sources that would be covered by each proposed source emissions threshold option, and sources located in designated nonattainment areas.

[30] Information on continuous emissions monitoring under the Acid Rain Program can be found at: *http://www.epa.gov/airmarkets/emissions/continuous-factsheet.html.* Information on the AERR can be found at: *http://www.epa.gov/ttnchie1/aerr/.*

[31] *See* acid rain program emissions reporting requirements at 40 CFR part 75.

[32] As stated previously, the term ''EPA Regional Administrator'' refers to the Regional Administrator or a delegated representative.

any air pollutant for which the Administrator has established a NAAQS and (ii) the submission, upon request, of data related to such air quality modeling to the Administrator.'' In this proposed rule, the EPA is requiring air agencies to submit such SO_2 monitoring and modeling data, as requested. Lastly, section 301(a)(1) provides the EPA with general authority to establish regulations as necessary to carry out the agency's functions, which in this case includes ensuring the attainment of the SO_2 NAAQS throughout each state. This section states that ''The Administrator is authorized to prescribe such regulations as are necessary to carry out his functions under this chapter. The Administrator may delegate to any officer or employee of the EPA such of his powers and duties under this chapter, except the making of regulations subject to section 7607(d) of this title, as he may deem necessary or expedient.''

Since the process proposed in this rulemaking will lead to the collection of additional air quality data to be used in the area designations process, the EPA intends to make publicly available on the EPA SO_2 designations Web site the air agency submittals required pursuant to this rule, any updated designation recommendations from the air agency and any designation-related correspondence from the EPA. Making this information readily available on the agency's Web site would be consistent with what has been done for other NAAQS designations processes.

We also are aware that due to a number of factors, there may be sources in the power industry and other sectors that are in operation as of January 15, 2016, but may be scheduled to shut down (e.g., due a consent decree or other legal agreement) prior to January 2017 (when the air agency should have ambient monitors operational and air quality modeling completed). The EPA would expect that any applicable source that intends to shut down but is still in operation on January 15, 2016, should be included on the air agency's list for SO_2 air quality characterization. However, if by January 1, 2017, the air agency can provide the EPA with a legal agreement or other detailed information confirming that the source has permanently shut down, then the air agency will have no further obligation regarding air quality characterization for this source pursuant to this rulemaking.

B. January 15, 2016: Air Agency Is Required To Submit Modeling Protocols for Sources That Will Be Characterized With Modeling

For source areas that the air agency identifies would be evaluated through air quality modeling, the EPA proposes that an air agency must also provide a modeling protocol to the EPA Regional Administrator by January 15, 2016. The modeling protocol would include information about such issues as the emissions input data, modeling domain, receptor grid, meteorological data and how to account for background concentrations. More details on the specific elements recommended to be included in the modeling protocol can be found in section V.B.2 of this proposed rule and in the draft modeling TAD,[33] but air agencies also have the option to use alternative elements on a case-by-case basis as appropriate. The EPA Regional Office staff would be available to consult with air agency officials to refine and agree upon the modeling protocol for each relevant source. The EPA Regional Offices would review the submitted information and follow-up with the states as expeditiously as practicable, either approving the submitted information in a similar manner to approval of annual monitoring plan updates, or following-up with the states if adjustments to modeling protocols are warranted.

C. July 2016: Annual Monitoring Network Plans Due to the EPA Regional Administrator Should Include SO_2 Monitoring Network Modifications Intended To Satisfy the Data Requirements Rule

Under this proposed rule, air agencies may elect to characterize air quality around some or all sources through ambient SO_2 monitoring, using existing and new monitoring sites. The EPA proposes that air agencies be required to submit relevant information about these monitoring sites to the EPA Regional Administrator by July 1, 2016, as part of their annual monitoring network plan, in accordance with the EPA's monitoring requirements specified in 40 CFR part 58. The EPA anticipates that states electing to monitor to satisfy this proposed rule will need to take explicit actions to identify, relocate and/or install new ambient SO_2 monitors that would characterize peak, 1-hour SO_2 concentrations in areas around or impacted by identified SO_2 sources. The EPA encourages states to work with the EPA Regional Offices in the development of an appropriate network plan to satisfy the intent of this rulemaking. In the annual monitoring network plan, the EPA encourages states to provide details on the adequacy of the SO_2 network, including rationale for why the proposed number of sites and their individual locations are appropriate. Considerations for siting these monitors are discussed in the draft monitoring TAD.[34]

D. January 1, 2017: SO_2 Monitors Intended To Satisfy the Data Requirements Rule Are Required To Be Operational

The EPA proposes that air agencies that have chosen to characterize air quality for certain SO_2 sources through ambient monitoring must have any relocated and/or new monitors operational by January 1, 2017. Under this approach, it is anticipated that the first 3 years of data would be collected from 2017 through 2019, allowing the first design value for each monitor to be calculated by May 2020. These new monitoring data could then inform the air agency's designation recommendation for the final round of designations (primarily for areas for which air quality is characterized through ambient monitoring).

E. January 13, 2017: States Electing To Model Are Required To Provide Modeling Analyses to the EPA Regional Administrators

The EPA proposes that air agencies choosing modeling to characterize ambient air quality around identified SO_2 sources be required to submit modeling analyses to the EPA Regional Office by January 13, 2017, for all source areas they had previously declared would be characterized through air quality modeling. These modeling analyses should be conducted in accordance with the recommendations in the EPA's modeling TAD or as otherwise approved on a case-by-case basis. (Section V provides more information on the technical details of these analyses.) The EPA believes that 2 years from promulgation of the final rule is a reasonable amount of time for air agencies to prepare the necessary data inputs and conduct such modeling for all subject sources.

The EPA intends to conduct a second phase of designations during 2017, relying on modeling analyses and other related information and to notify the

[33] The Draft SO_2 NAAQS Designations Modeling Technical Assistance Document can be found at *http://www.epa.gov/airquality/sulfurdioxide/pdfs/SO2ModelingTAD.pdf.*

[34] The Draft SO_2 NAAQS Designations Source-Oriented Monitoring Technical Assistance Document can be found at *http://www.epa.gov/airquality/sulfurdioxide/pdfs/SO2MonitoringTAD.pdf.*

states of intended designations by August 2017. The EPA therefore encourages states to submit with their modeling analyses updated designation recommendations. In developing any updated designation recommendations, the air agency should follow the EPA's most recent SO_2 designation guidance.[35] We recommend that any such updates to designation recommendations be submitted to the EPA Regional Office at the same time the modeling analysis is due, by January 13, 2017.

The EPA Regional Office and the air agency should engage actively in consultation to understand the inputs, assumptions and findings associated with each air quality modeling analysis. The air agency should submit thorough documentation of its modeling analysis and should provide the EPA with supplemental information about the analysis upon request, as the analysis will provide the basic technical supporting information used by the EPA in developing the designation for the area.

The EPA received a number of comments on the White Paper and in subsequent policy discussions with stakeholders requesting that in the next round of SO_2 designations in 2017, the EPA should designate areas as unclassifiable/attainment if it can be demonstrated that such areas do not violate the SO_2 NAAQS. Some commenters provided examples of states having large areas with very few SO_2 sources, or no SO_2 sources at all and indicated that such areas would be candidates for an unclassifiable/attainment designation.

The EPA finds merit in such examples and suggests that for this next round of SO_2 designations, the air agencies should consider providing the EPA with any recommended boundaries and supporting information for parts of their states for which they recommend an ''unclassifiable/attainment'' designation (e.g., an area without SO_2 sources or that is not impacted by sources in other areas). If the air agency recommends such a designation, the boundary of the area would need to be developed carefully, keeping in mind the fact that an additional set of source areas may be designated 3 years later based on monitoring data. Since the EPA expects to designate the majority of the country in 2017, the only areas the EPA would not be ready to take action on in 2017 are the areas for which states have elected to install new monitors. The EPA's initial thinking is that the state should not recommend a designation for any county that includes a source area with new monitoring under way. The EPA could designate as unclassifiable/attainment any area for which the state has submitted sufficient appropriate modeling or monitoring data to support such designation. The EPA may consider providing additional designation boundary guidance, including guidance for areas without sources, for this round of boundary recommendations at a later date.

In January 2017, there also may be undesignated areas with existing ambient air quality monitors that have data for the most recent 3 years (e.g., 2013–2015) that indicate a violation of the standard. The EPA intends to designate any area that has newly monitored violations as nonattainment in this next round of designations.

In other cases, air agencies may demonstrate that the existing monitoring network suffices to evaluate the air quality status of particular areas, such that monitoring data available by January 2017 are sufficient to justify designating the areas as attainment. For such areas, the governors may wish to update their designation recommendations and provide suggested boundaries for the areas, based on their analysis of sources and source regions contributing to air quality at the applicable monitor(s). Submittal of such recommendations should be supplemented with a thorough network analysis as described in the monitoring section of this rule, demonstrating that the network is sufficient to assess peak concentrations in the area.

F. By August 2017: Expected Date by Which the EPA Would Notify States of Intended Designations

Under CAA section 107(d)(1)(B)(ii), the EPA is authorized to promulgate designations that differ from the designations recommended by the state, but the EPA must notify the state of any such modifications at least 120 days before promulgating modified designations, providing the state an opportunity to provide further input on the designations and boundaries for the affected areas. For any areas being addressed in this round of designations, the EPA intends to notify the states of intended designations by August 2017. As with the previous SO_2 designation process completed in 2013, these letters would indicate the EPA's intended designation and boundary information for these areas and the states would have an opportunity to provide comments and suggest modifications as appropriate.

G. December 2017: Intended date by Which the EPA Would Issue Final Designations for a Majority of the Country

Under the anticipated schedule, the EPA expects to finalize designations by the end of 2017 for the following areas: (1) Those with modeled violations, (2) any previously undesignated area with ambient monitoring data from 2014–2016 indicating a violation, and (3) any unclassifiable/attainment areas as appropriate. EPA anticipates that this round of designations would address many areas across the country. Areas that would not be designated at this time would include (but not necessarily be limited to) those areas conducting new monitoring. For purposes of further outlining the timeline for submitting attainment plans and demonstrations, we will assume there will be a 60-day period between publication of the final designations in the **Federal Register** and the effective date of the designations, meaning that new nonattainment designations are anticipated to become effective in February 2018.

H. August 2019: Anticipated Due Date for State Attainment Plans for Areas Designated Nonattainment in 2017

Areas that are newly designated as nonattainment would have a new SIP obligation due 18 months from the effective date of the designation.[36] Thus, areas with an effective date of designation in February 2018 would have attainment SIPs due in August 2019. These plans would need to demonstrate how the area would attain the standard as expeditiously as practicable, but no later than 5 years from the effective date of the designation, or by February 2023.[37]

I. May 2020: Required Certification of 2019 Monitoring Data; States Have the Opportunity To Provide Updated State Recommendations to the EPA Regional Administrators

As noted in paragraph D above, air agencies electing to use monitoring to satisfy this data requirements rule will be required to have relocated and/or new monitors operational by January 1, 2017. In early 2020, the air agency

[35] The EPA issued guidance on the SO_2 area designations process on March 24, 2011. *See: http://www.epa.gov/air/sulfurdioxide/pdfs/20110411so2designationsguidance.pdf.* However, the EPA may provide updated SO_2 designations guidance, as appropriate, in advance of the January 2017 submittal date.

[36] SO_2 SIPs are due within 18 months, per CAA section 191(a).

[37] The attainment date for SO_2 nonattainment areas is as expeditiously as practicable, but not later than 5 years from the date of designation, per CAA section 192(a). The SO_2 implementation guidance can be found at: *http://www.epa.gov/oaqps001/sulfurdioxide/implement.html.*

would be able to certify data collected during 2019, thereby providing a complete, quality-assured data set for 2017–2019 for each ambient monitor.

In this scenario, in the event that the new monitoring data result in changes to designation recommendations previously submitted, the state would also have the opportunity to submit revised designation and boundary recommendations to the EPA by May 1, 2020, for all parts of the state that have not yet been designated. The EPA expects that the state would recommend nonattainment boundaries that include any nearby contributing sources, in the same manner as discussed in the EPA's SO_2 designations guidance. Presumably, at the completion of this round of the designations process, any areas not designated as nonattainment would be designated as unclassifiable/attainment.

J. August 2020: Expected Date by Which the EPA Would Notify States of Intended Designations for the Remainder of the Country Not Yet Designated

As noted above, CAA section 107(d)(1)(B)(ii) authorizes the EPA to promulgate designations that differ from the designations recommended by the state but requires the EPA to notify the state of any such modifications at least 120 days before promulgating modified designations. For the areas identified in paragraph I above, the EPA expects to notify the states of intended designations in August 2020. The letters would include the EPA's intended designation and boundary information for these areas and the states would have the opportunity to provide comments and suggest modifications as appropriate.

K. December 2020: Intended Date by Which the EPA Would Issue Final Designations for the Remainder of the Country

Under its anticipated designations schedule, the EPA would finalize designations for the remaining undesignated areas in each state in the December 2020 time frame. The timeline below for submitting attainment plans and demonstrations assumes there will be a 60-day period between publication of the final designations in the **Federal Register** and the effective date of the designations, meaning that any new nonattainment designations are anticipated to become effective in February 2021.

L. August 2022: Anticipated Due Date for State Attainment Plans for Areas Designated Nonattainment in 2020

Areas that are newly designated as nonattainment would have a new SIP obligation due 18 months from the effective date of the designation.[38] Thus, nonattainment areas with an effective date in February 2021 would have attainment SIPs due in August 2022. These plans would need to demonstrate how the area would attain the standard as expeditiously as practicable, but not later than 5 years from the effective date of the designation, or by February 2026.[39]

V. Technical Considerations

Section III of this preamble presents detailed discussion of the threshold-based air quality characterization approach that will focus limited resources most efficiently to implement the SO_2 NAAQS in areas that contain sources with larger SO_2 emissions and higher numbers of people, in order to address areas where there may be higher potential for NAAQS violations that adversely affect public health. This section discusses the different opportunities air agencies may use to provide the necessary air quality information to the EPA for areas around those identified sources. Based on this information, the EPA proposes taking an approach that allows for the use of air quality monitoring or modeling information, or a combination of both, for designations.

An approach using monitoring or modeling for designations actions would be consistent with the EPA's historic practices for SO_2 NAAQS implementation, where both monitoring and modeling have been used as appropriate in the designations process. Air agencies would have the flexibility to assess whether their SO_2 sources above the thresholds are violating the SO_2 NAAQS by employing either ambient air quality monitoring or air quality modeling. An air agency would not be limited to employ only one method within its jurisdiction.

When considering whether monitoring or modeling may be most appropriate for the area around each identified source, air agencies are encouraged to consider a number of factors. One key factor is whether or not the location or characteristics of an identified source or facility are conducive to modeling. The EPA strongly encourages air agencies to consider using monitoring to characterize air quality near those sources that are not easily characterized through dispersion modeling. Sources that may not be easily characterized through dispersion modeling include a source situated in an area of complex terrain and/or situated in a complex meteorological regime and areas that have multiple, relatively small sources with overlapping plumes.

States would need to consider each area around a source on a case-by-case basis to determine whether the modeling or monitoring pathway is most appropriate for characterizing air quality around that source. For areas with multiple sources that a state could recommend be included in a common area, the EPA suggests that a common analytical approach for assessing air quality be followed for all of the sources in the common area. For situations where multiple sources are located in proximity across state boundaries, the EPA recommends that the relevant air agencies work together to determine a common analytical approach for assessing air quality in that area. In these types of situations, it would not be appropriate to choose monitoring for some sources and modeling for others, since under this proposed rule areas with sources using these pathways would be designated on different time frames. In general, however, the determination of whether to use monitoring or modeling to characterize air quality around a source should be done on a case-by-case basis.

To assist states in the implementation of this rulemaking, the EPA has produced draft, non-binding technical assistance documents that discuss options and suggested approaches, and methods on how monitoring or modeling efforts to characterize air quality around an identified source might be conducted. The monitoring TAD provides potential options and recommendations on different approaches that can be used to site source-oriented SO_2 monitors in locations of expected maximum 1-hour concentrations. Modeling is generally a less costly and less resource intensive option for providing reliable information for use in designations. In addition, refined dispersion models are able to characterize SO_2 air quality impacts from the modeled sources across the domain of interest on an hourly basis with a high degree of spatial resolution. The modeling TAD provides recommendations for states planning to model source areas in their state.

[38] SO_2 SIPs are due within 18 months of area designation per CAA section 191(a).

[39] The attainment date for SO_2 nonattainment areas is as expeditiously as practicable, but not later than 5 years from the date of designation, per CAA section 192(a).

A. Monitoring

States that identify monitoring as the pathway to assess air quality around a particular SO_2 source would have the option to identify, relocate and/or install new monitors around the source by January 1, 2017, to provide data for use in designations in 2020. These monitors are expected to be source-oriented and sited to characterize location(s) of expected maximum 1-hour concentrations.

The monitoring TAD provides different approaches describing how source-oriented monitoring networks might be designed or augmented. The TAD discusses information that would be most useful to collect at the outset of formulating or evaluating a source-oriented network design, with an eye toward identifying sites at which maximum 1-hour concentrations can be expected. Examples include considering data about the source itself (emissions rate info, CEM data, stack height, stack temperature, permit requirements, control technology, etc.); similar information about any nearby SO_2 sources; existing air quality data from any nearby ambient monitors; any existing modeling data for the source, such as from past prevention of significant deterioration permits revision; meteorological data; and information about the local geographic setting of the source and surrounding area. The TAD presents options on using this information to feed into one or more siting approaches, including modeling, exploratory monitoring, or other analysis, such as a ''weight of evidence'' approach, to inform an appropriate monitoring network design to characterize the air quality around an identified SO_2 source.

As noted above, the EPA estimates that up to a third of the existing SO_2 monitoring network (as of 2013) may be considered to be source-oriented and/or characterizing maximum concentrations. The agency recognizes that using and leveraging existing infrastructure is a logical consideration in developing a network design and, in some cases, there may be a limited number of existing monitors appropriately situated in a way that might satisfy this rule. Air agencies that choose to identify, relocate, or install new monitors in an effort to satisfy this rule may use these monitors to satisfy the existing PWEI minimum monitoring requirements (promulgated in the 2010 SO_2 NAAQS revision [40 CFR part 58, Appendix D, Section 4.4.2]), if applicable to an area. However, those existing monitors currently in use to satisfy the PWEI-induced minimum monitoring requirements are not automatically eligible to satisfy the data requirements rule, as they may not be appropriately sited (e.g., they might not be source-oriented, maximum concentration sites). The EPA notes that PWEI monitors and other existing monitors (both regulatory and non-regulatory) may be helpful in providing information to help states determine appropriate locations for relocated or new monitors.

As discussed in section IV, this rulemaking proposes that in January 2016, states will submit to their EPA Regional Administrator the list of sources for which they will collect additional information for initial designations. This list would include all the sources that are above the annual emissions threshold that is ultimately finalized, as well as those sources that either the state or the EPA Regional Administrator has also identified as needing additional information on local air quality. As discussed above, the state would also commit at that time to the particular pathway (monitoring or modeling) it would employ to characterize air quality around each source. The EPA believes that the proposed requirement for the air agency to submit a list of sources identified for further air quality characterization, and the other associated data submittal requirements found in sections 51.1203 of the proposed rule, are appropriate steps needed to characterize SO_2 air quality throughout the country prior to designations, and are consistent with section 110(a)(2)(B) and section 110(a)(2)(K) of the CAA.

This rulemaking also proposes that in their annual monitoring network plans submitted in July 2016, air agencies must identify the new monitoring sites they have elected to deploy to assess air quality around selected sources to satisfy this data requirements rule. The EPA expects that states would provide analyses supporting the network design approach to characterize air quality around each relevant source (i.e., number of monitors for each SO_2 source, information demonstrating that the monitors would be placed in the area/areas of maximum concentrations, etc.). The EPA proposes that any relocated or new monitors must be installed and operational by January 1, 2017, and, thus, allowing for data collection during the 2017–2019 timeframe and for use of these data for designations expected in 2020. The EPA also proposes to require that any relocated or new monitors be operated in a manner equivalent to those monitors operated elsewhere in the State and Local Air Monitoring Stations (SLAMS) network; they do not, however, have to be designated as SLAMS. Specifically, the monitors should use Federal Reference Methods (FRMs) or Federal Equivalent Methods and meet the requirements of 40 CFR part 58 Appendices A, C and E. Further, the resulting data should be reported to the Air Quality System (AQS) and would be subject to annual data reporting and certification requirements listed in 40 CFR parts 58.15 and 58.16. When the data are reported to AQS, the data will be available to the public through this system.

The EPA recognizes that in some cases the deployment of a monitoring site might be delayed for a short period of time due to certain factors not directly under the air agency's control (e.g., obtaining permits or access to power for the site) and could cause the air agency to miss the January 1, 2017 deadline. In the event that a state has chosen the monitoring pathway for air quality assessment for a particular source and it does not have the monitor(s) installed and operational by the January 1, 2017, deadline such that the monitor would not have complete data for the first quarter, this would be a reason for concern for the EPA because the state would not be in a position to collect 3 complete calendar years of monitoring data (2017–19) as would be required for all other new monitoring sites established by other states pursuant to this rulemaking.[40] In those situations where it is evident that sufficient and appropriate monitoring will not be conducted in a timely manner, the EPA proposes that the source would be ''moved'' to the modeling pathway and would be included in the designations process intended to be conducted in 2017, based on appropriate information the EPA has obtained at that time. In this situation, if the state fails to provide modeling information for the source, the EPA would make decisions for designations based on the modeling and monitoring information available to the EPA at the time of designations. Therefore, the EPA strongly encourages states to only choose the monitoring option for a source if the state is confident in its ability to install and begin operation of any new monitors in a timely manner and to follow through with continued operation of the monitoring network as required by this rulemaking. The EPA requests comment on the approach proposed above. The EPA also requests

[40] Data completeness requirements for the 1-hour SO_2 NAAQS are described in 40 CFR part 50, Appendix T. A quarter is considered to have complete data when at least 75 percent of the sampling days have complete data.

comments on any alternative approaches that could most effectively address a situation where an air agency is acting in good faith to deploy monitors on time but experiences a delay outside of its control.

The potential use of third party SO_2 monitors was raised in past stakeholder discussions. In some cases, there may be industrial or other stakeholder monitoring sites in operation in an area around a source that a state chooses to monitor. If one or more of those sites is determined to be in an appropriate location to characterize peak 1-hour concentrations around the identified source, there is potential for such monitors to be leveraged to satisfy the requirements in this rule.[41] The use of such monitors, including details on how the monitors and monitoring data would be ensured to meet quality assurance and other criteria in 40 CFR part 58 Appendices A, C and E, would need to be documented and included in the annual monitoring network plan submitted to the EPA in July 2016. The EPA encourages air agencies to engage other stakeholders to pursue ambient monitoring partnerships wherever possible to use existing infrastructure, increase communication among parties and use available resources as efficiently as possible.

In other cases, air agencies may have limited budgets which would not allow for the funding of additional monitors, but affected sources may wish to fund the deployment of additional monitors as indicated in comments previously received on the White Paper. Any new monitoring sites funded by the regulated community also would need to be operated in manner equivalent to SLAMS, meeting quality assurance and other criteria in 40 CFR part 58 Appendices A, C and E, subject to data reporting and certification requirements, and there would need to meet applicable requirements for continued operation into the future if ambient concentrations exceed NAAQS levels. These sites would need to be documented and included in the annual monitoring network plan submitted to the EPA in July 2016.

In comments on the 2012 White Paper and on the 2013 draft monitoring TAD, the EPA received feedback from states and industry to consider a pathway to allow the shut-down of monitors operated to satisfy this proposed rule if no NAAQS violations are discovered. Specifically, due to current state and local resource constraints and in consideration of the potential collaboration that could occur between states and industry to operate some source-oriented SO_2 monitoring sites, commenters suggested that monitoring operations should be allowed to cease if no NAAQS violations are found.

As proposed, states electing to monitor around identified SO_2 facilities would be expected to have SO_2 monitors that are intended to satisfy this proposed rule to be operational by January 1, 2017. In a majority of those cases, the EPA believes that states will have to install new monitors, relocate existing monitors and/or work with industry to install new monitors or leverage existing industrially operated SO_2 monitors to satisfy the data requirements rule. In any case, the monitors operated to satisfy this proposed rule would be expected to have 3 years of complete data (spanning 2017 through 2019) available for design value calculations in early 2020.

In consideration of recent feedback received on this issue in comments on the monitoring TAD and SO_2 White Paper, the EPA is proposing that a monitor that has been deployed pursuant to this rule and is located in an area that is designated attainment in the anticipated third round of initial designations in 2020 may be eligible for shutdown provided the monitor meets certain criteria. Any SO_2 monitor identified in an approved state annual monitoring network plan to satisfy this proposed data requirements rule may be eligible for shut-down in 2021 or later if the following criteria are met: (1) The monitor is not also satisfying other minimum SO_2 monitoring requirements listed in 40 CFR part 58 Appendix D; (2) the monitor is not otherwise required to meet requirements in a SIP or permit; and (3) the monitor has recorded a 3-year design value that is no greater than 50 percent of the 1-hour SO_2 NAAQS. The EPA also proposes that any SO_2 monitor eligible for shutting down would need to be approved by the EPA Regional Administrator before monitoring operations could cease. This policy is similar to the provision allowing the EPA Regional Administrators to waive Lead NAAQS monitoring requirements if data indicate that the design value of the lead monitor has not exceeded 50 percent of the Lead NAAQS, as listed in 40 CFR part 58 Appendix D, Section 4.5(ii). The EPA proposes the 50 percent criterion for SO_2 monitors because such a precedent was established in the lead monitoring regulations and because SO_2 is a ''source-oriented'' pollutant similar to lead. As an alternative, the EPA is also proposing an option in which the same criteria noted above would need to be met, except that the monitor would be eligible to cease operations if it recorded a design value in 2018–2020 or a later 3-year period that is no greater than 80 percent of the 1-hour SO_2 NAAQS. This 80 percent criterion is indirectly derived from existing language in 40 CFR part 58.14(c)(1) describing one of several pathways to for states to shutdown existing SLAMS monitors, and it was also a criterion suggested by a state air agency in comments on the monitoring TAD. The EPA requests comment on the two proposed options for design value criteria for SO_2 monitor shutdowns, as well as other values within the 50–80 percent range. EPA requests that commenters provide specific technical rationale supporting any approach they recommend.

The EPA proposes these options to cease monitor operations in response to stakeholder concerns, but also believes it is important for air agencies to assess whether, even after monitoring data indicate low ambient SO_2 concentrations, the areas around these sources that are required to be characterized under this rulemaking continue to attain the standard in the future. To address this need, the EPA proposes that the air agency be required to assess SO_2 emissions changes annually, beginning in the year after the monitor ceases operation. Emissions data for large SO_2 sources would be available from annual reporting required for various emissions trading programs, the AERR rule, and other regulations. The AERR rule requires states to report SO_2 emissions data annually for large SO_2 sources. Every 3 years states must report data on SO_2 sources with potential to emit more than 100 tons per year. In other years, the AERR rule requires states to report data on SO_2 sources with potential to emit more than 2,500 tons per year. In addition, under the Acid Rain Program and other emission trading programs, many large combustion sources of SO_2 are required to continuously measure and record emissions of SO_2. These sources report hourly emissions data to the EPA on a quarterly basis. These requirements would be expected to cover the vast majority of sources subject to the SO_2 data requirements rule. States would need to work with any other source not subject to an annual SO_2 emissions reporting requirement under existing regulations to ensure that annual SO_2 emissions can be reported for the source under this data requirements rule. For areas around these sources in which total SO_2 emissions increase over the

[41] Monitors operated by third parties have been used for certain regulatory purposes in the past, provided they met certain quality assurance and oversight requirements.

emissions for the previous year, the air agency would be required to submit to the EPA an assessment of the cause of the increase and provide an initial determination of whether or not the air quality around that source should be further re-assessed. The air agency could choose to reinstate the operation of the air monitor or complete air quality modeling for the source area to verify that the area continues to attain the standard. Factors that the air agency should consider in making this determination include: The magnitude of the emissions increase and information about changes in the emissions profile, hourly emission rate, or operating schedule of the source.

The EPA proposes two options for how the air agency would submit this report and how the EPA would review and act on it. Under the first procedural option, we propose that the air agency would submit a report to the EPA annually as an appendix to the air agency's annual monitoring plan. The annual monitoring plan is required to be submitted to the EPA Regional Administrator by July 1 each year. A primary objective of this approach would be to enable the air agency to save time and resources by providing a single process for the public review and opportunity for comment on the annual monitoring plan and annual reports to demonstrate ongoing attainment of previously monitored areas.

The inclusion of this verification report as an appendix to the annual monitoring plan would ensure that the report would be subject to the same opportunities for public review and comment that are to be provided for the monitoring plan pursuant to regulations at 40 CFR part 58.10. Those regulations specify that if the air agency modifies the monitoring plan from the previous year, then prior to taking final action to approve or disapprove the plan, the EPA would be required to provide an opportunity for public comment on its proposed action. The public would have the opportunity to comment on any plan by the state to cease operation of an existing monitor or to add any new monitor to the network. In addition, the public would also have the opportunity to comment on the state's annual report of emissions data for sources for which the state ceased the operation of nearby monitors. The regulations also indicate that if the state has already provided a public comment opportunity in developing its revised monitoring plan and has made no further changes to the plan after reviewing public comments that were received, then it could submit the public comments along with the revised plan to the EPA and the Regional Administrator would not need to provide a separate opportunity for comment before approving or disapproving the plan.

Under the second procedural option, the annual report of emissions data for sources for which the state ceased the operation of nearby monitors would not be submitted to the EPA as an appendix to the annual monitoring network plan. Instead, it would take the form of a separate, independent annual submittal from the state to the EPA Regional Administrator. However, we propose that this report would be due by the same July 1 date each year. This independent submittal would follow the general guidelines set forth in 40 CFR 58.10 regarding opportunities for public review and comment as described in Option 1 above, but the report would only include the annual assessments associated with sources in areas that were designated unclassifiable/attainment and for which the EPA granted approval to cease monitoring. The public would have the opportunity to comment on each report when it is submitted annually.

The EPA believes that the main advantage of the first option is that from a procedural standpoint, it would leverage the time and resources that are already devoted to the existing annual monitoring plan development and public review process. In contrast, the second option would require additional state and the EPA resources to provide for public review opportunities in parallel with the monitoring plan process. Regardless of which procedural approach is included in the final rule, we believe that it will be important for the EPA to communicate to each state the reasoning behind any action or decision the EPA makes with regard to the submitted ongoing verification of attainment report. This information should be provided in writing in a letter or **Federal Register** document, as appropriate.

The EPA solicits comments on the merits of the proposed monitor shutdown policy and the use of 50–80 percent of the NAAQS as a criterion for shut-down eligibility. The EPA also solicits comments on preferences regarding the approach for ongoing assessment of air quality after a monitor is shutdown either as an appendix to the annual monitoring network plan or as a separate document, as the means by which air agencies provide information to the EPA Regional Office. The EPA requests any suggested alternatives to these procedural options.

B. Modeling

This section explains how modeling should be conducted and submitted to the EPA for those sources for which a state chooses to characterize ambient SO_2 air quality conditions using air quality modeling. While the basic modeling tools to be used to assess air quality around these sources are the same tools often used for other modeling exercises, such as attainment demonstrations or permitting of new/modified sources, this rule and the associated modeling TAD describe significant differences in the way these modeling tools should be used that are unique to the area designations process.[42] When modeling to assess SO_2 air quality for the area designations process, it is appropriate to characterize *actual* air quality and it is not necessary to project *potential* air quality. Modeling conducted for the purposes of designations in effect is used as a surrogate for ambient monitoring of current actual air quality. Therefore, when modeling is used for SO_2 designations, the inputs to the models may be designed to more accurately represent actual air quality.

The EPA anticipates that states would use AERMOD to conduct this designations modeling, as AERMOD is the EPA's preferred near-field dispersion model and has been demonstrated to be a reliable predictor of SO_2 air quality given appropriate input data. As part of its development, AERMOD was evaluated using 17 field studies, several of which involved short-term measurements of SO_2, robust site-specific meteorology and accurate measurements of emissions. The EPA is confident that AERMOD can provide accurate predictions of actual SO_2 concentrations, given representative meteorology and accurate emissions inputs.

1. Inputs for Designations Modeling

There are 3 air quality modeling inputs used for designations modeling that would differ from the permit and implementation plan modeling requirements set forth in Appendix W of 40 CFR part 51. As noted above, the objective of this designations modeling approach is to assess actual, current air quality. The 3 modeling inputs that are required to reflect actual air quality are: emissions data, stack height and years of meteorological data.

[42] Air quality modeling that is conducted to demonstrate attainment for a nonattainment area or to project potential air quality impacts for the permitting of a new or modified source commonly uses allowable or permitted emissions levels rather than actual emissions levels.

(a) Emissions—General Issues

Dispersion modeling has typically been used to estimate the ambient impact of a source's allowable emissions for use in attainment demonstrations or in setting emission limits. In these situations, it is important to consider the full potential a source has to emit the relevant pollutant(s). In contrast, for the designations process it is important to understand what a source is actually emitting, or has actually emitted in the recent past. Traditionally, to characterize air quality for the designations process for other NAAQS pollutants, the EPA has exclusively used data from air quality monitoring networks. However, as noted above, due to the fact that SO_2 concentrations can vary substantially with distance and direction away from the source, given the limitations in the existing monitoring network in identifying peak SO_2 concentrations and given that modeling data has already been employed for past designations for the SO_2 NAAQS, the EPA believes that dispersion modeling is an appropriate option for representing current (or recent) SO_2 air quality.

Traditionally, when modeling is used for estimating future air quality, a source's allowable emission limits are used in the modeling application to assess whether the potential emissions from the source might cause violations. For designations, the EPA believes it is appropriate to use current actual emissions to obtain estimates of current actual air quality. Specifically, the EPA recommends that the air agency should use a source's most recent 3 years of actual emissions in the modeling analysis to estimate air quality for that 3-year period. There are a range of recommended options for determining these actual emissions which are discussed in the modeling TAD. While actual emissions would be the preferred choice to use for emissions inputs, states have the option of using a more conservative approach by inputting a source's most recent 3 years of allowable, or ''potential to emit,'' emissions. Further discussion below describes situations in which states may prefer to use allowable emissions in this analysis. Additional information and recommendations on this approach are discussed in the modeling TAD.

In addition to considering actual emissions from the principal source or sources in an area, the modeling analysis needs to take into consideration the relevant SO_2 ''background'' concentration for the area. When modeling is intended to assess current air quality (such as modeling for the designations process), the modeling also needs to consider the background concentrations of SO_2. The inclusion of ambient background concentrations to the model results is important in determining the modeled cumulative impacts of all nearby sources. In an area with an air quality monitor, the SO_2 concentrations recorded by the monitor might reflect the combination of local source impacts and any other ''background'' contribution to SO_2 concentrations from other sources. The inclusion of ambient background concentrations to the model results is important in determining the modeled cumulative impacts of all nearby sources. Thus, ambient background concentrations are determined on a case-by-case basis, depending on factors such as the proximity of other SO_2 sources to the source being modeled, and the distance and location of the closest ambient monitor to the source or sources being modeled. Please see the modeling TAD for additional suggestions on identifying background concentrations to be incorporated into this modeling.[43]

(b) Emissions—Accounting for Recent Emission Reductions in Modeling Analyses

The EPA seeks to provide an incentive to states to work with sources to install controls and reduce emissions prior to final designation in 2017. The EPA expects that in some cases, air quality modeling conducted well in advance of January 2017 may indicate a violation of the 1-hour SO_2 standard in some areas. To address such situations and potentially avoid a nonattainment designation, the air agency may wish to consult with the source and conduct additional analyses with the source to identify a control measure or an emission limit that would ensure attainment with the 1-hour SO_2 standard for the area around the source. The air agency could then take action to adopt enforceable emissions limitations as necessary prior to January 2017 and conduct modeling analyses based on these new emissions limits as explained below.

The EPA expects that a number of emissions sources may be candidates for this optional approach. Many EGUs will need to meet compliance deadlines for the Mercury and Air Toxics Standards (MATS) in 2015–2016 and EPA expects that many will become subject to Title V permits that require compliance with MATS SO_2 emission limits as the means of demonstrating compliance with the MATS requirements related to acid gas emissions. These EGUs may be able to adopt control technologies and enforceable emission limits to reduce emissions of SO_2 as well as mercury. Similarly, industrial boiler operators will have the incentive to adopt SO_2 emission limits as part of their strategy for complying with the Industrial Boiler Maximum Achievable Control Technology Standard.

As long as these controls are implemented and enforceable as of January 2017, the EPA believes it would be appropriate for the new lower allowable emission limit to be used in a modeling analysis in place of the old, higher, actual data from the last 3 years. The air quality impacts from such a source would, at worst, be characterized by the new enforceable allowable limit and could be used as a basis for future designations. Thus, for the purposes of meeting the data requirements rule where a source has adopted new enforceable emission limits, the state may use these new allowable emission limits when completing their modeling analyses due in January 2017. Instead of using the most recent 3 years of actual emissions data or previously allowable emissions limits, the air agency could use the new emissions information as the inputs for all 3 years of their designations modeling.

This approach allows additional time in 2015 and 2016 for the sources to reduce their emissions and if the state is able to demonstrate attainment with the new controls or emission limits, the governor of the state has the opportunity to modify its designation recommendation accordingly. The EPA notes that this option to model recently adopted emissions limits to avoid a nonattainment designation provides an incentive for the air agency and facility to achieve emissions reductions that will result in health benefits sooner in the communities located near these sources (since local air quality would improve sooner than if the area were designated nonattainment in 2017 and attainment were required by no later than 2022).

(c) Stack Height

Air quality modeling that is used for projecting future air quality when setting emission limits must use ''good engineering practice'' (GEP)[44] stack height in order to not allow inappropriate credit in SIPs and federal implementation plans for techniques

[43] The Draft SO_2 NAAQS Designations Modeling Technical Assistance Document can be found at *http://www.epa.gov/airquality/sulfurdioxide/pdfs/SO2ModelingTAD.pdf.*

[44] For a complete definition of GEP stack height, *see* 40 CFR 51.100(ii).

that disperse rather than reduce or eliminate emissions, as required by CAA section 123 and the EPA's stack height rules.[45] This approach helps ensure the attainment of the NAAQS with the use of these emission limits.

As noted previously, the modeling approach described in this proposed rule for initial area designations is to be used for assessing actual air quality rather than for the development of future emissions limitations. Accordingly, it is more appropriate to use actual stack height in conjunction with actual emissions when using a modeling approach to characterize current air quality. The concern about giving inappropriate credit for dispersion techniques is not relevant in this situation as section 123 applies only to emission limitation controls. This situation is unique for these initial SO_2 designations because states would be assessing actual air quality and this is different from the situations subject to section 123 requirements, where GEP stack height is traditionally used to determine what emission limits are needed to ensure future attainment of a NAAQS. The combination of actual stack height with actual emissions would more effectively characterize the current air quality around a source.

As discussed in the previous section, there may be certain sources that states wish to model using allowable emissions. If a state chooses to use allowable emissions, then it should also use GEP stack height when the actual stack height exceeds the GEP height. In situations where the actual stack height exceeds the GEP height, the GEP stack height is more appropriate because the GEP height is used when calculating the allowable emission rates and using actual stack height in such a case would not reflect the true allowable emissions for the source. Stacks with actual stack heights below the GEP height would use the actual stack height because GEP stack height would not have been a relevant factor in determining the source's prior emissions limit, and use of GEP stack height in this case would not accurately reflect actual ambient impacts. Additional recommendations on the use of actual stack height can be found in the modeling TAD.

(d) Meteorological Data

In accordance with 40 CFR part 51, Appendix W, air agencies and sources conducting SO_2 modeling for permitting or SIP attainment demonstrations generally use either 5 years of National Weather Service meteorological data, or 1 year of on-site meteorological data. These data need to be representative of the area's meteorology, but do not necessarily need to be from the most recent years of data. In contrast, the modeling approach discussed in this proposed rule uses alternate meteorological inputs to characterize current air quality. For purposes of conducting modeling that better simulates what might be expected to be measured by an ambient monitor, this rule proposes the use of 3 years of meteorological data. Ideally, air agencies would use the most recent 3 years of meteorological data and the same 3 years of actual emissions data when modeling for designations. The modeling TAD has additional suggestions on these meteorological inputs.

2. Modeling Protocols and Analyses

As discussed previously, this rulemaking proposes that each state submit to its EPA Regional Administrator by January 15, 2016, a list identifying the sources for which it will characterize nearby air quality and the analytical approach (monitoring or modeling) to be used for each source. This list should include all sources in the state that are above the relevant emissions thresholds and those additional sources that either the state or the EPA Regional Administrator has also identified as needing additional information on local air quality.

In preparation for conducting modeling, the state would need to develop a modeling protocol for all the sources the state plans to model. This protocol can be source specific, or in some cases, the state may propose a standard protocol for all the sources in its state. Details on the suggested protocol elements and the recommended standard format of this protocol can be found in the modeling TAD. The state would submit this protocol to the Regional Administrator for review at the same time it submits its list of sources outlining its monitoring and modeling choices. The state is encouraged to work with its EPA Regional Office throughout 2015 while developing its modeling protocols.

3. State Recommendations for 2017

Under this rule, air agencies would be required to submit modeling analyses for selected source areas by January 13, 2017, and at the same time air agencies could submit revised designation and boundary recommendations for these areas based on these new modeling data. These recommendations could include modeling demonstrating that the source area is either attaining or violating the current SO_2 standard.

States could also assess recent data from their existing SO_2 monitoring networks and provide designations recommendations based on these data as well. If they have properly sited source-oriented monitors that are attaining the current SO_2 NAAQS with 3 years of quality assured data, they could submit a demonstration showing that those monitors are properly sited (following the suggested guidelines in the monitoring TAD), along with a recommendation for a designation of unclassifiable/attainment for the associated area. Likewise, if the state has an existing monitor that is violating the standard and the area has not yet been designated nonattainment, it should provide a nonattainment area boundary recommendation for the associated area at this time. Lastly, the state may wish to submit revised boundary recommendations for areas with low emissions that do not contain any sources above the threshold, or for areas with additional sources identified by the state or Regional Administrators for further characterization.

Thus, since the EPA expects to designate the majority of the country in 2017, the only areas the EPA would not be ready to take action on in 2017 are the areas for which states have elected to install new monitors. The EPA's initial thinking is that the state should not recommend a designation for any county that includes a source area with new monitoring under way. The EPA may consider providing additional designation boundary guidance for this round of boundary recommendations at a later date.

4. Ongoing Air Quality Characterization Requirements for Areas Designated Attainment Based on Modeling

Typically, in situations where ambient monitoring data alone are used to assess air quality to determine whether an area is attaining the NAAQS, these monitoring data continue to be collected by the air agency, made publicly available and used for a variety of regulatory and non-regulatory purposes. Ambient monitoring is commonly continued to verify ongoing maintenance of the standard, both for areas that were designated nonattainment and for areas that were designated unclassifiable/attainment alike.

(a) Options for Ongoing Verification

The use of modeling to characterize SO_2 NAAQS-related air quality and serve as a surrogate for monitoring raises the issue of how a state will

[45] *See* stack height regulations at 40 CFR 51.100(ff)–(kk); and 40 CFR 51.118.

continue to have data to assure ongoing attainment of the NAAQS. A monitoring network provides data on a continuous basis, but any modeling conducted pursuant to this rule to assess attainment of the SO_2 NAAQS for designations purposes would represent a discrete 3-year period (similar to determining a 3-year design value based on ambient monitoring data). A one-time modeling analysis using actual emissions information would not provide for ongoing verification of continued attainment.

For this reason, the EPA is proposing 3 policy options for how states that satisfy the requirements of this rulemaking by using the modeling option in a given area will need to conduct additional emissions and/or modeling analyses to demonstrate continued attainment for an area around a source. The EPA expects that such additional analyses will be needed for areas that are designated as ''unclassifiable/attainment'' based on modeling information and would be intended for the purpose of verifying that such areas continue to meet the standard, just as monitors do now in many areas. The EPA also presents 2 procedural options describing the process by which states would provide an opportunity for public review and comment and submit their report to the EPA and for the EPA to take action on the reports.

Before introducing the options for ongoing verification of attainment, we note that source areas would not be subject to these ongoing verification requirements if: (1) Modeling for the source was conducted using allowable emissions; or (2) the modeling for the source was conducted using actual emissions and the relevant sources then adopted enforceable emission limits consistent with the actual emissions rates used in the modeling. First, if an allowable emissions rate were used in the modeling, then an enforceable emission limit would already be in place to limit the source's emissions in the future, so emissions would not be expected to exceed what was modeled. Therefore, compliance with the emissions limit for areas associated with these sources should be sufficient to ensure air quality meets the standard and the EPA is not proposing additional means of verification for such areas. Indeed, since use of actual emissions requires recurring review to judge whether air quality may have worsened and compliance with allowable emissions can demonstrate that no such review would be necessary, states would have the incentive to use allowable emissions limits in their modeling if it would demonstrate that emissions at allowable levels would not cause violations of the NAAQS.

Second, for an area that was modeled as attaining the standard based on actual source emissions, the state always has the option to adopt for the source(s) in the area federally-enforceable emission limits at levels that are consistent with the actual emissions used in the modeling and that ensure attainment with the standard. These emission limits would ensure that the source's emissions would not increase in the future. Assuming the limits are adopted, enforceable and being met by the time designations are completed, this approach would require no additional submittal by the air agency after initial designations beyond the usual ongoing source compliance demonstrations. Under this approach, it would be assumed, subject to compliance monitoring, that the source would remain in compliance with its emission limits and the area would continue to attain the standard. If a state does not take either of the approaches described above, however, some mechanism for confirming that air quality continues to meet the standard must be in place. Descriptions of the 3 proposed options on which we request comment are presented below.

(1) Ongoing Verification Option 1

The first option would require the air agency to assess SO_2 emissions annually for sources that are located in areas designated unclassifiable/attainment based on modeling using actual emissions, and to conduct updated air quality modeling every 3 years. On an annual basis, beginning the year after designations are effective, the air agency will be required to provide an assessment of the most recent emissions data for each source and whether it has increased in emissions or changed its emissions profile (e.g., change in operating schedule). Emissions data for large SO_2 sources would be made available by the state from annual reporting required for the acid rain program, the air emissions reporting rule, or other regulations. For each source, the air agency also will be required to make a determination as to whether it finds that additional modeling is needed to assess if the area around the source(s) is still attaining the SO_2 NAAQS. Factors the air agency should consider in making this determination include: The estimated design value from the original modeling analysis and how close that value was from exceeding the standard; the magnitude of the emissions increase; and information about changes in the emissions profile (e.g., operating schedule of the source) or hourly emission rate. The EPA Regional Administrator will assess the information provided by the air agency and determine on a case-by-case basis if additional modeling will be requested from the state to assess potential changes in air quality. If the air agency determines that additional modeling is necessary, the EPA expects the air agency to conduct such modeling and provide the results of that assessment in a timely fashion.

In the third year after designations are effective and continuing every 3 years after that, the air agency would also be required to submit a modeling analysis assessing the air quality around each source(s) using actual annual emissions and meteorological data from the most recent 3 years. Based on this analysis, the air agency will need to determine whether the area is still attaining the SO_2 NAAQS. If any new modeling by the air agency indicates that an area is not attaining the SO_2 NAAQS, the EPA may take appropriate action, including, but not limited to, requiring adoption of enforceable emission limits to ensure continued attainment of the SO_2 NAAQS, redesignation to nonattainment, or issuance of a SIP Call. Air agencies may request that the EPA Regional Administrator approve a suspension of the triennial modeling requirement for an area if their most recent modeling design value is less than 50 percent of the NAAQS and if that modeling is not also required as part of a SIP or permit. Note that for such areas, the air agency will still be required to provide an annual assessment of the most recent emissions data for each source and whether it has increased in emissions or changed its emissions profile (e.g., change in operating schedule).

The EPA believes that this approach is appropriate for assessing ongoing attainment of the SO_2 NAAQS, as it follows a similar approach to what states would be required to do if there was a monitor near a source. The EPA believes that this approach would be a reasonable way to provide for an ongoing assessment of key sources. Recognizing state resource limitations, this approach does not require air agencies to conduct modeling for each source every year, and, in the years when modeling is required, much of the information from prior modeling will likely continue to be applicable (*e.g.,* stack parameters, terrain). Thus, compared to a situation in which the air agency would be required to operate and maintain an ambient monitor to ensure ongoing attainment, this

requirement to track emissions annually and conduct updated modeling every 3 years provides appropriate ongoing characterization of air quality while being less burdensome than monitoring for the air agency. The EPA is also proposing two alternative options for comment below.

(2) Ongoing Verification Option 2

The second option would also require the air agency to provide the EPA with an assessment of SO_2 emissions changes for each source annually, beginning in the year after the area is designated unclassifiable/attainment. This annual review of emissions would be similar to the requirement discussed in the first option. As noted above, emissions data for large SO_2 sources would be available from annual reporting required for the acid rain program, the air emissions reporting rule, or other regulations. However, instead of modeling every 3 years, EPA would require that, for each source in which total SO_2 emissions increase over the emissions for the previous year, the air agency would be required to submit to the EPA an assessment of the cause of the increase and provide an initial determination of whether or not air quality modeling would be needed to verify that the area around the source continues to attain the standard. Factors the air agency should consider in making this determination include: The estimated design value from the original modeling analysis and how close that value was from exceeding the standard; the magnitude of the emissions increase; and information about changes in the emissions profile or hourly emission rate.

For example, if the previous modeling of actual emissions in the area estimated the design value to be just below the level of the standard and 5 years later the area emissions increased by 15 percent, then this likely would be a sufficient reason for the air agency to conduct an updated modeling analysis.[46] On the other hand, if the initial modeling using actual emissions for the area indicated that the design value would be less than half the level of the standard and in a subsequent year indicated the area emissions increased by 5 percent, then this might be a sufficient reason for the air agency to recommend that it does not need to conduct an updated modeling analysis.

The Regional Administrator would consider the air agency recommendation for each area around a source on a case-by-case basis and may direct the air agency to conduct an updated modeling analysis using the SO_2 emissions from the most recent 3 years and to submit the results of such analysis to the EPA Regional Office by a specific date. If the air agency determines that additional modeling is necessary, the EPA expects the air agency to conduct such modeling and provide the results of that assessment in a timely fashion—within 12 months. The EPA will consider the results of any updated modeling analysis in order to determine whether the area continues to attain.

The EPA believes that this option strikes a balance between analytical burden and air quality protection because it provides a simple, easy-to-track benchmark for requiring further investigation of an emissions increase by the air agency, and it allows the Regional Administrator to first consider the air agency's analysis of each particular case before determining whether a more resource-intensive modeling analysis would be required. The EPA believes that this option would be a reasonable alternative to option 1 for requiring some further assessment of source areas, but a key difference is that it would not require modeling every 3 years. Because modeling likely would be required less frequently under this option, it would be less resource intensive than option 1, but the verification of ongoing attainment would not reflect the same degree of certainty as option 1.

(3) Ongoing Verification Option 3

Under the third option, the state would be required to perform periodic screening modeling every 3 years for all source areas that had been previously modeled and determined to be attaining the standard, and submit such modeling for review to the EPA. Screening modeling typically uses conservative assumptions to determine whether an area around a source(s) would still be expected to attain the standard, and it requires less work by the air agency in preparing model inputs as compared to preparing for a full-scale modeling analysis. The companion screening model for AERMOD is the AERSCREEN model. A complete, full-scale modeling analysis with updated emissions and meteorological inputs would only be required if the state performs screening modeling that indicates a potential violation.

If this new full-scale modeling by the air agency indicates that an area is not attaining the SO_2 NAAQS, the EPA may take appropriate action, including, but not limited to, requiring adoption of enforceable emission limits to ensure continued attainment of the SO_2 NAAQS, redesignation to nonattainment, or issuance of a SIP Call. The basic rationale behind this option is that since these areas were designated as unclassifiable/attainment based on modeling, then it would be appropriate to require periodic updated modeling to continue to verify attainment. Because the states will have already gone through the process of modeling these sources, it is expected that it will be less resource intensive to conduct this periodic screening modeling in subsequent years.

(b) Procedural Options for Ongoing Verification

As with the prior section regarding ongoing verification following removal of a monitor, the EPA also proposes two options regarding the procedure by which air agencies would submit ongoing verification reports to the EPA when a state elects to use the modeling option and the procedure by which the EPA would review and act on them. The contents of the verification report will depend on which of the above policy options is ultimately finalized.

(1) Procedural Option 1

Under the first procedural option, we propose that in order to demonstrate ongoing verification of attainment for sources that have been designated unclassifiable/attainment based on modeling analyses, the air agency would submit a report to the EPA annually as an appendix to its annual monitoring plan. The annual monitoring plan is required to be submitted to the EPA Regional Administrator by July 1 each year. This annual process for verifying ongoing attainment for areas designated attainment based on modeling in effect would be a surrogate for ongoing ambient monitoring (which would provide a new 3-year design value with each new year of air quality data). A primary objective of this approach would be to enable the air agency to save time and resources by providing a single process for the public review and comment on the annual monitoring plan and annual reports to demonstrate ongoing attainment of previously modeled areas.

The inclusion of this verification report as an appendix to the annual monitoring plan would ensure that the report would be subject to the same opportunities for public review and comment that are to be provided for the monitoring plan pursuant to regulations at 40 CFR Part 58.10. Those regulations specify that if the air agency modifies the monitoring plan from the previous

[46] Moreover, the prevention of significant deterioration program would likely require such an analysis if the emissions increase originated from a major modification to an existing source.

year, then prior to taking final action to approve or disapprove the plan, the EPA would be required to provide an opportunity for public comment on its proposed action. The regulations also indicate that if the state has already provided a public comment opportunity in developing its revised monitoring plan and has made no further changes to the plan after reviewing public comments that were received, then it could submit the public comments along with the revised plan to the EPA, and the Regional Administrator would not need to provide a separate opportunity for comment before approving or disapproving the plan.

(2) Procedural Option 2

Under the second procedural option, the ongoing verification of emissions report would not be submitted to the EPA as an appendix to the annual monitoring network plan. Instead, it would take the form of a separate, independent submittal from the state to the EPA Regional Administrator. However, we propose that this report would be due by the same July 1 date each year. This independent submittal would follow the general guidelines set forth in 40 CFR 58.10 regarding opportunities for public review as described in option 1 above, but the report would only include the annual assessments associated with sources in areas that were designated unclassifiable/attainment based on modeling of actual emissions.

The EPA believes that the main advantage of the first procedural option is that from a procedural standpoint, it would leverage the time and resources that are already devoted to the existing annual monitoring plan development and review process. In contrast, the second option would require additional state and the EPA resources to provide for public review opportunities in parallel with the monitoring plan process. The main advantage of the second option is that it would keep the information submitted to verify ongoing attainment for modeled areas separate from the annual monitoring plan. It may be considered advantageous from the perspective of managing workflow in an air quality management organization to not have the modeling verification reports be combined with the annual modeling plans.

Regardless of which procedural approach is included in the final rule, the EPA would communicate to each state the reasoning behind any action or decision the EPA makes with regard to the submitted ongoing verification of attainment report. For example, the EPA should describe the supporting rationale for a decision to require additional monitoring from the state, or for a decision to allow the state to suspend the periodic modeling requirement for a source because the latest modeled design value is below 50 percent of the NAAQS. This information should be provided in writing in a letter or **Federal Register** document, as appropriate. The EPA seeks to adopt an effective approach for verifying ongoing attainment for modeled source areas that can serve as a reasonable surrogate to ongoing ambient monitoring without creating undue burden for states.

The EPA requests comment on the 3 policy options presented above, and requests that each commenter provide a clear rationale for their position. The EPA also requests comments on the two procedural options presented above. For both sets of options, the EPA would be interested in any alternative ideas suggested by commenters. For any such recommendations, the EPA requests the commenter provide a detailed rationale and estimate of any associated costs.

VI. Statutory and Executive Order Reviews

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

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is a ''significant regulatory action'' because it raises novel policy issues. Accordingly, the EPA submitted this action to OMB for review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011) and any changes made in response to OMB recommendations have been documented in the docket for this action.

B. Paperwork Reduction Act

The information collection requirements in this proposed rule have been submitted for approval to the OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 et seq. The Information Collection Request (ICR) document prepared by the EPA has been assigned the EPA ICR number 2495.01.

The EPA is proposing this SO_2 Data Requirements rule to require air agencies to more extensively characterize ambient SO_2 air quality concentrations, pursuant to section 110(a)(2)(B) and 110(a)(2)(K) of the CAA, to inform the area designations process for the 2010 SO_2 NAAQS. For purposes of analysis of the estimated paperwork burden, the EPA assumed that 47 states and tribes would take actions to characterize air quality through either air quality modeling or ambient monitoring in 443 areas across the country and such states would submit the results of these analyses to the EPA. Under this rule, the air agency will have the ability to choose, on an area-by-area basis, the analytical approach to follow for characterizing air quality around each qualifying source. For this reason, there is no way of determining exactly how many areas may be characterized through ambient monitoring versus air quality modeling approaches. Therefore, this section presents two sets of estimated costs, one that assumes all sources would be characterized through ambient monitoring, and the other that assumes that all sources would be characterized through air quality modeling.

Potential ambient air monitoring costs are estimated based on the assumption that air quality for each of the 443 SO_2 sources exceeding the Option 1 threshold would be characterized through a single newly deployed air monitor. (Note, however, that the Monitoring TAD discusses situations where more than one monitor may be appropriate or necessary to properly characterize peak 1-hour SO_2 concentrations in certain areas.) Estimates are provided for a 3 year period and include a calculation for equipment amortization over seven years (as is typically done in monitoring-related ICRs). For the period of 2016, 2017, and 2018 (the SO_2 requirement begins in 2016), the total approximate average annual monitoring cost, including a calculation for equipment amortization is $9,308,824 (total capital, and labor and non-labor operation and maintenance) with a total burden of 110,543 hours. The annual labor costs associated with these hours is $7,608,287. Included in the $9,308,824 total are other annual costs of non-labor operations and maintenance of $760,011 and equipment and contract costs of $940,526. For reference purposes, an estimate for initial establishment of a new SO_2 monitoring station is $92,614 (does not include equipment amortization). In addition to the costs that would be incurred by the state and local air agencies, there would be an estimated burden to the EPA of a total of 52,717 hours and $776,005. Burden is defined at 5 CFR 1320.3(b).

Potential air quality modeling costs are estimated based on the assumption that air quality for each of the 443 SO_2 sources exceeding the Option 1 threshold would be characterized through air quality modeling analyses. Based on market research, stakeholder feedback, and assumptions about the

procedures to follow when conducting modeling for designations purposes,[47] an estimate of modeling costs for a single modeling run centered on an identified source would be approximately $30,000. If states choose to characterize air quality through modeling analyses around all 443 sources identified under source threshold Option 1, then total national costs for modeling analyses would be estimated at $13,300,000. If these costs were incurred over the course of three years, then the approximate annual cost for each year over that period would be $4,433,333.

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 OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9.

To comment on the agency's need for this information, the accuracy of the provided burden estimates and any suggested methods for minimizing respondent burden, the EPA has established a public docket for this rulemaking, which includes this ICR, under Docket ID number EPA–HQ–OAR–2013–0711. Commenters should submit any comments related to the ICR to both the EPA and OMB. *See* the **ADDRESSES** section at the beginning of this notice for where to submit comments to the EPA. Send comments to OMB at the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, Attention: Desk Office for the EPA. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after May 13, 2014, a comment to OMB is best assured of having its full effect if OMB receives it by June 12, 2014. The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any regulation subject to notice and comment rulemaking requirements under the Administrative Procedures Act or any other statute unless the agency certifies the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations and small governmental jurisdictions.

For purposes of assessing the impacts of this proposed rule on small entities, small entity is defined as: (1) A small business as defined in the Small Business Administration's (SBA) regulations at 13 CFR 121.201;) (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of this proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This proposed rule will not impose any requirements directly on small entities. Entities potentially affected directly by this proposal include state, local and tribal governments and none of these governments are small governments. Other types of small entities are not directly subject to the requirements of this rulemaking. We continue to be interested in the potential impacts of the proposed rule on small entities and welcome comments on issues related to such impacts.

D. Unfunded Mandates Reform Act

This action contains no federal mandate under the provisions of title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531–1538 for state, local and tribal governments, in the aggregate, or the private sector. This action imposes no enforceable duty on any state, local or tribal governments or the private sector. Therefore, this action is not subject to the requirements of section 202 and 205 of the UMRA.

This action is also not subject to the requirements of section 203 of the UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments. The CAA imposes the obligation for states to submit information to the EPA to characterize air quality in order for such data to inform the area designations process following the revision of a NAAQS. This rule interprets the requirements in section 110(a)(2)(B) and 110(a)(2)(K) in order for air agencies to more broadly characterize ambient SO_2 concentrations for the SO_2 NAAQS designations process.

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, as specified in Executive Order 13132. The requirement to characterize air quality to inform the area designation process for a revised NAAQS is imposed by the CAA. This proposed rule, if made final, would interpret those requirements as they apply to the 2010 SO_2 NAAQS. Thus, Executive Order 13132 does not apply to these proposed regulations.

In the spirit of Executive Order 13132 and consistent with the EPA policy to promote communications between the EPA and state and local governments, the EPA specifically solicits comments on this proposed action from state and local officials. In addition, the EPA intends to meet with organizations representing state and local officials during the comment period for this action.

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

This proposed action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). It would not have a substantial direct effect on one or more Indian tribes. Furthermore, these proposed regulation revisions do not affect the relationship or distribution of power and responsibilities between the federal government and Indian tribes. The CAA and the Tribal Air Rule establish the relationship of the federal government and tribes in characterizing air quality and developing plans to attain the NAAQS, and these revisions to the regulations do nothing to modify that relationship. Thus, Executive Order 13175 does not apply to this action.

Although Executive Order 13175 does not apply to this action, the EPA held several meetings with tribal environmental professionals to discuss issues associated with this rule, including discussions at the National Tribal Forum on May 1, 2013, and on National Tribal Air Association policy calls. These meetings discussed the SO_2 implementation White Paper. The EPA also provided an opportunity for tribes and stakeholders to provide written comments on the concepts discussed in the White Paper. Summaries of these meetings are included in the docket for this proposed rule. The EPA specifically solicits additional comment on this proposed action from tribal officials. The EPA also intends to offer to consult with any tribal government to discuss this proposal.

[47] The Draft SO_2 NAAQS Designations Modeling Technical Assistance Document can be found at *http://www.epa.gov/airquality/sulfurdioxide/pdfs/SO2ModelingTAD.pdf.*

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

The EPA interprets E.O. 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the E.O. has the potential to influence the regulation. This action is not subject to E.O. 13045 because it does not establish an environmental standard intended to mitigate health or safety risks. These proposed regulatory provisions are designed to help implement the already-established SO_2 NAAQS, which was promulgated in 2010 to protect the health and welfare of individuals, including children, who are susceptible to the adverse effects of exposure to unhealthy levels of ambient SO_2.

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

This action is not a ''significant energy action'' as defined in Executive Order 13211 (66 FR 28355 (May 22, 2001)), because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note) directs the EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures and business practices) that are developed or adopted by voluntary consensus standards bodies. NTTAA directs the EPA to provide Congress, through OMB, explanations when the agency decides not to use available and applicable voluntary consensus standards.

This proposed rulemaking does not involve technical standards. Therefore, the EPA is not considering the use of any voluntary consensus standards.

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

Executive Order (E.O.) 12898 (59 FR 7629 (Feb. 16, 1994)) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies and activities on minority populations and low-income populations in the United States.

The EPA has determined that this proposed rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. The proposed regulations would, if promulgated, require air agencies to characterize ambient SO_2 air quality levels more extensively throughout the country, particularly in areas near large emissions sources. The EPA has designed options in this proposed rule that would require air agencies to characterize air quality around smaller emissions sources, if such sources are located in more highly urbanized areas, because such areas would have the potential for a greater number of people to be exposed to adverse effects of ambient SO_2 concentrations. This aspect of the proposed rule can help to ultimately provide additional protection for minority, low income and other populations located in these urbanized areas. As such, the EPA finds that this proposed rule would not adversely affect the health or safety of minority or low-income populations, and that it is designed to protect and enhance the health and safety of these and other populations.

Statutory Authority

The statutory authority for this action is provided by 42 U.S.C. 7403, 7407, 7410 and 7601.

List of Subjects in 40 CFR Part 51

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

Dated: April 17, 2014.

Gina McCarthy,

Administrator.

For the reasons stated in the preamble, title 40, chapter I, part 51 of the Code of Federal Regulations are proposed to be amended as follows:

PART 51—REQUIREMENTS FOR PREPARATION, ADOPTION AND SUBMITTAL OF IMPLEMENTATION PLANS

■ 1. The authority citation for Part 51 continues to read as follows:

Authority: 23 U.S.C. 101; 42 U.S.C. 7401–7671q.

■ 2. Add Subpart BB to read as follows:

Subpart BB—Data Requirements for Characterizing Air Quality for the Primary SO_2 NAAQS

Sec.
51.1200 Definitions.
51.1201 Purpose.
51.1202 Applicability.
51.1203 Air agency requirements.
51.1204 Enforceable emission limits.
51.1205 Assuring continued attainment.

Subpart BB—Data Requirements for Characterizing Air Quality for the Primary SO_2 NAAQS

§ 51.1200 Definitions.

The following definitions apply for the purposes of this subpart. All terms not defined herein will have the meaning given them in section 51.100 of this part or in the CAA. *2010 SO_2 NAAQS* means the primary NAAQS for SO_2 as codified at 40 CFR 50.17, as promulgated on June 2, 2010.

Air agency means the agency or organization responsible for air quality management within a state, local governmental jurisdiction, territory or area subject to tribal government.

Annual SO_2 emissions data means the quality-assured annual SO_2 emissions data for a stationary source as reported to the EPA in accordance with any existing regulatory requirement (such as the National Emissions Inventory, the Acid Rain Program database, or the Clean Air Interstate Rule database).

Applicable source means a stationary source that has annual SO_2 emissions of 2000 tons or more; has annual SO_2 emissions of 1000 tons or more and is located within a CBSA with a population equal to or greater than 1 million persons; or has been identified by the air agency or by the EPA Regional Administrator as requiring further air quality characterization.

CBSA means core based statistical area, as defined and maintained by the Office of Management and Budget (OMB) pursuant to OMB Bulletin 13–01 (February 28, 2013). The most recent revision to CBSA definitions were developed in accordance with OMB's ''Standards for Delineating Metropolitan and Micropolitan Statistical Areas,'' 75 FR 37246 (June 28, 2010).

§ 51.1201 Purpose.

The purpose of this subpart is to require air agencies to take actions to develop air quality data characterizing maximum 1-hour ambient concentrations of SO_2 more extensively across the United States through either additional ambient air quality

monitoring or air quality modeling analyses at the air agency's election. Such additional monitoring and modeling data may be used in future initial area designations by the EPA, or for other actions designed to ensure attainment of the 2010 SO_2 NAAQS and provide protection of the public from the short-term health effects associated with exposure to SO_2 concentrations that exceed the NAAQS.

§ 51.1202 Applicability.

This subpart applies to any air agency in whose jurisdiction is located one or more applicable sources of SO_2 emissions that has annual SO_2 emissions of 2,000 tons or more; has annual SO_2 emissions of 1,000 tons or more and is located within a CBSA with a population equal to or greater than 1 million persons; or has been identified by the air agency or by the EPA Regional Administrator as requiring further air quality characterization. The subject air agency shall identify applicable sources of SO_2 based on the most recent publicly available annual SO_2 emissions data for such sources.

§ 51.1203 Air agency requirements.

(a) The air agency shall submit a list of applicable sources located in its jurisdiction to the EPA by January 15, 2016. This list may be revised by the Regional Administrator after review based on available SO_2 emissions data.

(b) For each area containing an applicable source, the air agency shall state by January 15, 2016, whether it will characterize air quality through ambient air quality monitoring or through air quality modeling techniques. For any area with multiple applicable sources, the air agency (or air agencies if a multi-state area) shall use the same technique (monitoring or modeling) to characterize air quality for all sources in the area.

(c) Monitoring. For any area for which air quality will be characterized through ambient monitoring, the monitors shall be sited and operated in a manner equivalent to SLAMS, including, but not limited to being subject to reporting data to AQS, data certification and satisfying criteria in 40 CFR part 58 Appendices A, C and E. The air agency shall include relevant information about monitors used to characterize air quality in areas with applicable sources in the air agency's annual monitoring network plan required by 40 CFR 58.10. The air agency shall consult with the appropriate the EPA Regional Office in the development of plans to install, supplement, or maintain an appropriate ambient SO_2 monitoring network pursuant to the requirements of 40 CFR part 58 and this proposed rule. The air agency's annual monitoring network plan due on July 1, 2016 shall reflect such monitoring and ensure that such monitors will be operational by January 1, 2017.

(1) All existing, new or relocated ambient monitors intended to satisfy section 51.1203(b) must be operational by January 1, 2017.

(2) By no later than May 1, 2020, the air agency shall determine whether any new ambient monitoring sites deployed pursuant to this subpart indicate a violation of the 2010 SO_2 NAAQS based on ambient monitoring data from the most recent 3 calendar years.

(3) Any SO_2 monitor identified by an air agency in its approved Annual Monitoring Network Plan as having the purpose of satisfying section 51.1203(b) of this proposed rule and which is not in an SO_2 nonattainment area, and is not also being used to satisfy other ambient SO_2 minimum monitoring requirements listed in 40 CFR part 58 Appendix D, section 4.4, or which may otherwise be required as part of a SIP or permit, and that produces a design value of no greater than fifty percent of the 1-hour SO_2 NAAQS, may be eligible for shut-down. The air agency must receive the EPA Regional Administrator approval prior to the shut-down of any qualifying monitor.

(d) Modeling. For each area for which air quality will be characterized through air quality modeling, the air agency shall submit by January 15, 2016, a technical protocol for conducting such modeling to the Regional Administrator for review. The air agency shall consult with the appropriate the EPA Regional Office in developing these modeling protocols.

(1) The modeling protocol shall include information about the modeling approach to be followed, including but not limited to the model to be used, modeling domain, receptor grid, emissions dataset, meteorological dataset and how the state will account for background SO_2 concentrations.

(2) Modeling analyses shall characterize air quality based on either actual 1-hour SO_2 emissions from the most recent 3 years, or federally enforceable allowable emissions. If the air agency intends to use allowable emissions limits for this analysis, it may submit such allowable emissions limits for the EPA's approval at the time the modeling protocol is submitted.

(3) The air agency shall conduct the modeling analysis for any applicable source identified by the air agency pursuant to section 51.1203(a), and for its associated area and any nearby area, as applicable, and submit the modeling analysis to the EPA Regional Office by January 13, 2017.

§ 51.1204 Enforceable emission limits.

At any time prior to January 13, 2017, for any area that does not have an initial area designation conducted pursuant to section 107(d) of the CAA, the air agency may submit to the EPA for an applicable source a currently applicable and federally enforceable SO_2 emissions limit or limits, associated air quality modeling, and other analyses that demonstrate the area, and any nearby area, as applicable, does not violate the 2010 SO_2 NAAQS, and that the source emissions limit will ensure continued attainment. The EPA will consider such enforceable emissions limits and modeling demonstrations in the initial designations process for these areas.

§ 51.1205 Assuring continued attainment.

(a) For any area in which one or more applicable sources is located and which has been initially designated attainment pursuant to this proposed rule based on ambient monitoring data or based on a modeling analysis using recent actual emissions, the air agency shall ensure that the area continues to attain the 2010 SO_2 NAAQS in subsequent years.

(b) Modeled areas. For any area initially designated attainment where modeling of actual emissions was conducted to characterize air quality to satisfy the requirements listed in 51.1203 of this part, the air agency shall submit a report to the EPA Regional Administrator as an appendix to its annual monitoring plan (due on July 1 each year per 40 CFR 58.10) documenting the annual SO_2 emissions of each applicable source in each such area and providing an assessment of the cause of any emissions increase. The first report for each such area is due by July 1 of the year after the effective date of the area's initial designation.

(1) Along with the annual emissions report, the air agency shall provide a recommendation regarding whether additional modeling is needed to characterize air quality in any area to determine whether it continues to attain the 2010 SO_2 NAAQS. The EPA Regional Administrator will consider the emissions report and air agency recommendation, and may require that the air agency conduct updated air quality modeling for the area and submit it to the EPA by a specified date.

(2) For any area initially designated attainment where modeling of actual emissions was conducted to characterize air quality, the air agency also shall submit to the EPA an updated air quality modeling analysis by July 1 of the third year after the designation for

the area is effective every 3 years thereafter.

(3)(i) The air agency may request that the EPA Regional Administrator approve ceasing continued triennial modeling of the area as required by paragraph (b)(2) of this section if the following criteria are met:

(A) the modeling is not otherwise required to meet any requirement in a SIP or permit; and

(B) the most recent modeling for the area resulted in a modeled design value that is no greater than fifty percent of the 1-hour SO_2 NAAQS.

(4) The EPA will act upon such a request to cease triennial modeling as part of its action on the annual monitoring plan under 40 CFR 58.10. For areas where the EPA has approved the air agency's request to cease continued modeling of the area, the air agency will be required to continue to meet the requirements of paragraphs (b) and (b)(1) of this section.

(c) Monitored areas. For any area initially designated attainment where SO_2 monitoring was conducted to characterize air quality to satisfy the requirements listed in section 51.1203 of this part, the air agency shall continue to operate the monitor(s) used to satisfy those requirements and report ambient data pursuant to existing ambient monitoring regulations.

(1)(i) The air agency may request that the EPA Regional Administrator approve the shut-down of any monitor in operation to satisfy the requirements of section 51.1203 of this part if the following criteria are met:

(A) the monitor is not also satisfying other minimum SO_2 monitoring requirements listed in 40 CFR part 58 Appendix D;

(B) the monitor is not otherwise required to meet any requirement in a SIP or permit; and

(C) the monitor recorded a design value in the most recent 3-year period that is no greater than fifty percent of the 1-hour SO_2 NAAQS.

(ii) The EPA will act upon any request to cease operation of a monitor as part of its action on the annual monitoring plan under 40 CFR 58.10.

(2) For any area for which the EPA has approved the air agency's request for an SO_2 monitor to cease operations, the air agency shall submit a report to the EPA Regional Administrator as an appendix to its annual monitoring plan (due on July 1 each year per 40 CFR 58.10) documenting the annual SO_2 emissions of each applicable source in each such area and providing an assessment of the cause of any emissions increase. The first report for each such area is due by July 1 of the year after the monitor operations were terminated.

(3) Along with the annual emissions report, the air agency shall provide a recommendation regarding whether additional air quality characterization is needed to determine whether the area continues to attain the 2010 SO_2 NAAQS. The EPA Regional Administrator will consider the emissions report and air agency recommendation, and may require that the air agency reinstate ambient monitoring or conduct additional modeling and submit relevant data to the EPA by a specified date.

(d) If modeling or monitoring information required to be submitted by the air agency to the EPA pursuant to section 51.1205 of this part indicates that an area is not attaining the 2010 SO_2 NAAQS, the EPA may take appropriate action, including but not limited to, disapproving the monitoring plan, requiring adoption of enforceable emission limits to ensure continued attainment of the 2010 SO_2 NAAQS, redesignation of the area to nonattainment, or issuance of a SIP Call.

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Part V

The President

Proclamation 9119—Military Spouse Appreciation Day, 2014

Federal Register
Vol. 79, No. 92
Tuesday, May 13, 2014

Presidential Documents

Title 3—

The President

Proclamation 9119 of May 8, 2014

Military Spouse Appreciation Day, 2014

By the President of the United States of America

A Proclamation

Our military spouses embody ideals we cherish: strength, loyalty, and commitment. They stand beside those who stand behind our flag, giving their all and making tremendous sacrifices. They shoulder the burdens of countless moves and stressful deployments, and they uphold their end of the bargain. On Military Spouse Appreciation Day, we celebrate the force behind the force and show these homefront heroes the full support of a grateful Nation.

My Administration is working to fulfill our sacred obligation to our veterans, service members, their spouses, and their families. We are helping military families avoid foreclosure and predatory lending, and we are investing in their education. We are easing burdens by supporting childcare and assisting with career training. And because our men and women in uniform and their spouses are partners not only in love, but also in law, we are doing everything we can to ensure all married couples receive the benefits they deserve—regardless of their sexual orientation.

Through the Joining Forces initiative, First Lady Michelle Obama and Dr. Jill Biden are expanding employment opportunities for veterans, transitioning service members, and their spouses while advocating for new legislation to bolster professional development services. And they are forging stronger connections between military and civilian families and engaging us all in the push to give military families the opportunities, resources, and support they have earned—not only today, but every day. To learn more and get involved, visit www.JoiningForces.gov.

As service members board planes for deployments to foreign lands, they need to know their country will be there for their loved ones. As mothers and fathers take on the work of two, they need to know their neighbors will lend a hand. And if called to make the ultimate sacrifice, troops must know their Nation will honor their memory and care for their family. After everything military spouses have done for America, for one another, for our wounded warriors and the families of the fallen, we must stand beside them. We must make good on our debt of gratitude. May each of us serve our military spouses and their families as well as they serve us.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim May 9, 2014, as Military Spouse Appreciation Day. I call upon the people of the United States to honor military spouses with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this eighth day of May, in the year of our Lord two thousand fourteen, and of the Independence of the United States of America the two hundred and thirty-eighth.

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